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RICHARD T. ELY, PH.D., LL.D.

DIRECTOR OF THE SCHOOL OF ECONOMICS AND POLITICAL SCIENCE, UNIVERSITY OF WISCONSIN

COLONIAL GOVERNMENT

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Colonial Government

AN INTRODUCTION TO THE STUDY OF COLONIAL INSTITUTIONS

BY

PAUL S. REINSCH

PROFESSOR OF POLITICAL SCIENCE IN THE UNIVERSITY OF WISCONSIN

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PREFACE

In these days we often encounter the statement that as the United States in its national development did not build on precedent, but struck out boldly along new lines, so also in respect to the government of dependencies we may safely rely upon the genius of the American people to find the proper solution for all vexing problems, without recurrence to the experience of other nations. But, as a matter of fact, the two situations are not parallel. The growth of the American nation on a virgin continent, which stimulated energetic action by its boundless resources, has been unique both in the conditions of its environment, in the amalgamation of many distinct ingredients, and in the flexibility of social and political structure. In the question of colonial government, however, we have to deal with a fixed element, the native population, long settled in certain localities and exhibiting deeply ingrained characteristics; a population, too, that cannot be swept away before the advancing tide of Caucasian immigration as were the

North American Indians. In dealing with this situation, it is, therefore, not safe to apply the precedents of American national development without careful selection, and while no one would advocate the servile imitation of the methods of other colonial powers, still it is the part of wisdom at this juncture to review the modes of action and the institutions by which other nations have been for a long time attempting, with varying results, to solve similar problems.

The present study deals primarily with the institutional framework of colonial government. The first part of the book is devoted to a brief survey of the motives and methods of colonial expansion, and is intended to furnish the historical point of view. The second part deals with the general forms of colonial government, while the third presents an outline of administrative organization and legislative methods. No attempt is made directly to apply the information to American problems, as the purpose of the book is merely to set forth in brief and simple form the main outline of the colonial policy of European powers. The interesting problems of colonial administration, as distinguished from institutional forms, — finance, taxation, defence, education, protection of the natives, labor, immigration, health service, land

policy, internal improvements, and development of industry, — are to be dealt with in a subsequent volume.

The writer wishes to express his acknowledgment and appreciation of the faithful assistance offered by Mr. J. D. Barnett, a Fellow in Political Science at the University of Wisconsin, in the work of verification and proof-reading.

PAUL S. REINSCH.

MADISON, WISCONSIN,
May 1, 1902.

CONTENTS

PART I

MOTIVES AND METHODS OF COLONIZATION

CHAPTER		PAGE
I.	Introduction	3
II.	Movements of Population	30
III.	Missionary Work	38
IV.	Individual Enterprise, Exploration, and Adventure	49
V.	Commerce and Communication	57
VI.	Capitalistic Expansion	81

PART II

FORMS OF COLONIAL GOVERNMENT

VII.	Spheres of Influence	95
VIII.	Colonial Protectorates	109
IX.	Chartered Companies	145
X.	Direct Administration	167
XI.	Experience with Representative Institutions in Colonies of Direct Administration	197
XII.	Self-governing Colonies	238
XIII.	Colonial Federation	251

PART III

INSTITUTIONS OF COLONIAL GOVERNMENT

CHAPTER		PAGE
XIV.	Organs of Colonial Government in the Mother Country	279
XV.	Legislation for the Colonies	296
XVI.	Institutions of Government in the Colonies	311
XVII.	Municipal and Local Government in the Colonies	330
XVIII.	Colonial Law	346
XIX.	The Organization of Colonial Courts	363

PART I

MOTIVES AND METHODS OF COLONIZATION

CHAPTER I

Introduction

I

The end of the nineteenth century and the opening of the twentieth have seen a remarkable revival of interest in colonial enterprise. Similar to that great period, four hundred years ago, when the whole extent of the habitable globe first became known to an astonished Europe and when the spirit of adventure and exploration reigned supreme, our age has again called forth a deep interest in things far away, and men are now enlisting their enthusiasm and energies in the work of rendering accessible and useful the great discoveries of the earlier era. The attitude of European publicists and statesmen toward the question of colonial dominion has in the last two decades changed to such an extent that we could almost say, "The stone rejected of the builders has become the head of the corner." Fifty, and even twenty-five, years ago the political energies of Europe were taken up with internal struggles and developments; few men looked beyond the boundaries of the old continent. Even those states which had exten-

sive transoceanic possessions manifested but little interest in them, and were inclined to regard them as an irksome burden, and by no means as a source of strength to national life. Lord John Russell, in his masterly and statesmanlike speech on the colonies, delivered in the House of Commons on February 8, 1850, looked forward to the independence of the larger colonies; while Lord Stanley, who later, as Earl of Derby, held the office of colonial minister under Mr. Gladstone, spoke in even more definite terms when he said: "We know that British North America and Australia must before long be independent states. We have no interest except in their strength and well-being." [1] In the year 1865 a Parliamentary committee on West African affairs passed a resolution to the effect that it was not advisable further to extend British control in West Africa, nor even to continue to exercise direct or protecting sovereignty in that region.

An entirely different spirit breathes from the utterances of representative men in Europe at the present time. They often go to the opposite extreme, giving to colonial power, and to empire beyond the sea the chief place among their political ideas. The belief that the eventual independence of the colonies is to be expected as a natural and necessary outcome now finds but few sponsors. Mr. Chamberlain, in his well-known speech before the Chambers of Commerce of the Empire, in

[1] Speech of October 19, 1864.

1896, has given eloquent expression to the manner in which the relation between colonies and mother country is now generally conceived. "Am I wrong," he asks, "in thinking that the colonies share our feelings and share them to the full, — that they have no idea of cutting themselves adrift from the great history of the motherland, from the glorious traditions in which we find the germs and origins of the ordered liberty which they enjoy, from the history of the struggles in which their ancestors took no mean part, and from all the common pride in the glories of art and literature, which, perhaps even more than our victories in arms, have made the name of Britain illustrious? I am convinced that none of our colonies will be backward in the effort to secure and maintain this connection, nor ready to abandon its part in the noble heritage which belongs to all of them!"

Lord John Russell and Lord Stanley were not distinctively opponents of colonial empire as were many other representative statesmen of the period, but they merely reflected the common attitude of the public mind toward the colonial question. England was at that time the land of Liberalism *par excellence*. The attention of its public men was concentrated on matters of home government, on the development of trade and industry, on peaceful progress, and on constitutional reform. The corner-stone of the policy of that era was freedom from governmental interference. From this principle there followed the doctrine of free trade, the

demand for retrenchment in public expenditure, the desire for peace with all nations and for the settlement of disputes among them by accord, the advocacy of manhood suffrage both as a postulate and as a guarantee of justice, the curtailment of ancient privileges in Church and State, — in general, the view that humanity is above the State, and that government is a mere mechanism which ought to be confined to the limited function of protecting the individual and maintaining law and order.

From this political philosophy there followed, as a most important result, the attitude toward colonial dependencies which we have just noted and which remained quite common for several decades. The example of the United States seemed to forbode the ultimate independence of the colonies, and the political theory of the time favored local autonomy. The Liberal publicists argued that the only rational policy for the mother country was, to assist its dependencies in this process of building up their own national life, by relaxing its control and gradually giving them self-government, and through such helpfulness to cultivate their lasting friendship and good graces. Throughout the discussions of the period there runs the expression of apathy toward wide territorial empire and of a desire to accelerate the process of separation. Richard Cobden has set forth this feeling, as well as the causes which prompted it, in the clearest language, in a letter on the Indian Mutiny: "I

am, and always have been, of the opinion that we have attempted an impossibility in giving ourselves to the task of governing one hundred millions of Asiatics. God and His visible natural laws have opposed insuperable obstacles to the success of such a scheme; but if the plan were practicable at the great cost and risk which we now see to be inseparable from it, what advantage can it confer on ourselves? We all know the motive which took the East India Company to Asia — monopoly, not merely as toward foreigners, but against the rest of their own countrymen. But now that the trade of Hindustan is thrown open to all the world on equal terms, what exclusive advantage can we derive to compensate for all the trouble, cost, and risk of ruling over such a people?"[1]

The chief practical objection of the Liberals to colonial dominion is here expressed; namely, that since exclusive commercial privileges could be no further maintained, the expenditure of money upon the colonies would be poor economy. The mere glory of possessing colonies had little attractiveness for the Liberals; they had no desire "to tax themselves for the pleasure of governing others." John Bright, in his speech on Canadian Federation, contemplates the separation of Canada from Great Britain with great equanimity, as an event sooner or later to be expected. "I want the population of the province," he says, "to do that which they believe to be best for their own inter-

[1] Cited in John Morley, *Richard Cobden's Life*, p. 448.

ests — to remain with this country if they like it, or to become independent if they so wish." He also lays special stress on the financial side of the matter. Speaking of the North American Provinces, he says, "If they are to be constantly applying to us for guarantees for railways and for grants for defence, then I think it would be far better for them and for us — cheaper for us and less demoralizing for them — that they should become an independent state and build their own future without relying upon us." [1] This attitude was common to the most prominent Liberal statesmen and thinkers. The foreign and colonial policy of Mr. Gladstone was conceived entirely in this spirit, as is apparent from his action in the matter of the Ionian Islands, his abandonment of the Sudan, and his withdrawal from the Transvaal. Nor were there many among the ranks of the Conservative party who took a more favorable view of the advantages of colonial dominion. Even Disraeli, destined to be the protagonist in the movement of imperialism, was so much influenced by the spirit of the times as to declare, "These wretched colonies will all be independent too, in a few years, and are a millstone around our necks."

The French Liberals and classical economists, from J. B. Say down to Frederic Passy and Yves Guyot, are similarly unanimous in underestimating the importance of colonial possessions, and discouraging colonial enterprise. Prevost-Paradol's

[1] Speech of February 28, 1867.

insistence upon colonization as "the activity which decides the future of the human race," [1] and M. Leroy-Beaulieu's prize treatise on colonization, issued in the year 1873, were the first indication of the change that was to carry the French public mind to the opposite extreme of boundless enthusiasm for expansion.

After that momentous year, 1870, when the entire aspect of Europe had been changed by the achievement of German and Italian political unity, the older Liberalism gradually lost its hold, and was superseded by an aggressive and ambitious Nationalism. The great nations, having matured into concrete personalities, were eager to engage in a vigorous competition for power and wealth. Finding their original area too limited for their teeming energies, they looked abroad for new realms to conquer. As the European balance of power kept them from preying directly on each other, their eyes longingly turned to the lands held by inferior races, which could be appropriated with comparatively small exertion. Suddenly the colonial wealth of England became an object of jealousy to her neighbors; they sought to mend their neglected fortunes by the rapid occupation of Africa, they endeavored to emulate her sea power, and sent out merchantmen to dispute with her the dominion of the world's trade. As formerly the political institutions of her national life, so now her methods of colonial expansion and of trans-

[1] Letter of December 10, 1865.

marine trade, became a model to the other nations.

In France the exigencies of Napoleon's continental policy, Roman in its attempt to subjugate civilized nations, had necessitated the sacrifice of a vast colonial empire. Although some decades later General Faidherbe and other men of enterprise and initiative labored at the extension of French dominion in North and West Africa, public interest in colonial affairs was not aroused until the defeats in the Prussian War caused the French nation to look for opportunities to redeem its prestige in new realms. In this it was encouraged by Bismarck, who regarded colonial politics as largely a waste of national energy. Since then, great areas have been added to the French dominions in the northern half of Africa and in Indo-China; and although their colonies have proved an expensive undertaking, the French enthusiastically cling to them as the "grand cordon" of the glory of empire, as a solace for lost power in Europe, and as a last chance for regaining economic strength and national importance.

Germany has but recently become a votary of colonial expansion. Bismarck saw his life work clearly in the upbuilding and internal cementing of German political unity; beyond this his plans did not extend. In his *Memoirs* he declares that Germany, having achieved national existence and power, now has no further desire but the maintenance of peace and of the *status quo*. He was

reluctant to let the government engage in colonial enterprise, believing that greater advantage could be gained from the expansion of commerce and industry by private initiative. Before the end of his career, however, he was forced to resort to political interference in order to protect the German merchants in Africa. By the delimitation agreement of 1890, German rule in Africa became an established fact, and at that time, under the leadership of her young ruler, the empire had entered fully into the competition for colonial power.

In Russia expansion is not a new phenomenon; till recently it was but the natural growth of a people cultivating a constantly widening area. The last few decades, however, have brought a marked change in its character; with the rapid advance in Central Asia, and the occupation of Manchuria, Russia has entered upon a more conscious phase of expansion. In the transformation of Siberia from a dread waste into a home for millions, Russia is true to her old character as a conqueror of the hostile forces of nature. But farther to the south, as her recent movements indicate, she seems ambitious to become the conqueror of men, and to construct an Asiatic empire by purely political means. Her shrewd and successful policy in Persia and China appears part of a vast plan to accelerate the slow, natural process of settlement colonization, and thus to forestall all possible attempts of other nations to gain a foothold in these coveted territories.

Thus the national state, moulded in the furnace of history for centuries, has now come to form the core of a new development — a world-wide empire encircling the globe with its commerce and its colonial establishments. Only within the last decade has the consciousness of this great change become at all common, and with it there has arisen an intense public interest in colonies and dependencies. As colonial enterprise has become a matter of prime importance in modern life, the success of a nation with respect to it is looked upon as a touchstone of national vigor and ability. The nations of Europe, whose national territory is limited, and who feel the impulse of expanding energies, look upon the possession of a colonial empire as an absolute requisite for continued power and importance; to some of them it even seems a question of life and death when they consider the changed aspect of the world.

The United States though not thus pressed by evident necessity, has been carried along by the current of events, and finds itself in the possession of an extensive colonial domain, which is, on account of its climatic conditions, not suitable for settlement by Americans. This constitutes an entirely new departure in the history of the Republic. The methods by which the problem of settling and subduing the American continent was solved do not furnish a precedent applicable to regions densely populated by races that to some extent already share in civilization. It is the natural, and

the only wise, course to turn to the experience of other nations who have had similar problems to face, and by whose failures and successes we may instruct ourselves. For the settlement by modern Europeans of a vast region in a moderate climate, history held no precedent; the questions of their own national life the American people had, therefore, to solve largely by experiment. It would, however, be worse than folly to reject the experience of others where similar conditions make its application possible.

II

The term "colony" is derived from the Latin *colonia*, which signifies a place of planting, or a group of persons who plant;[1] hence in its original and simple meaning, "colony" refers to a body of people who leave their native country and settle in a new region for the purpose of tilling the soil. The Greek generic term applied to colonies, *apoikia*, on the other hand, signifies merely a settlement away from home, or a home at a distance. Colonization should, however, be distinguished from migration, which occurs when an entire tribe or nation leaves its original home and settles in another country, as did the Anglo-Saxons and Lombards. Nor should the term "colony" be applied to a body of people, who after emigration have lost

[1] The terms "plantation" and "colony" were in the earlier days of English colonization often used interchangeably, as, for instance, in the case of the Plantation of Massachusetts Bay.

all connection with the mother country. The concept of a colony, therefore, contains the idea of some kind of bond between the new settlement and the mother country, whether in the matter of language, of religion, of economic life, or of political allegiance.

In an ethnological sense, any settlement, whether retaining its political connection or not, is a colony so long as the original language and social characteristics are preserved. In this sense we may still speak of the United States as a colony of Great Britian, of Quebec as a French colony, and of the German colonies in South America. The latter may also be regarded as colonies in respect to their economic relations, since nearly all their foreign business dealings are with the German Empire. The Greek colonies, though they did not preserve any political allegiance to their mother city, retained its language and religion, and sent representatives to the athletic games of Greece; hence, in an ethnological and social sense, they too deserve the name of colonies. The Athenian cleruchies and the Roman colonies always retained a close political connection with the mother city.

In its broader aspects, when we look beyond the mere fact of present settlement, colonization implies the exertion of influence by a higher civilization upon one of a lower order, or the creation of civilized life where none existed before. This influence must, however, he brought to bear through personal contact, through a certain amount of set-

tlement by the members of the higher state among the less advanced population. To constitute colonization it would not be sufficient to exert influence through legislation, writing, or any form of propaganda, without the creation of some amount of permanent settlement. Yet permanent settlement could not truly be called colonization, if it were undertaken by people of a lower civilization in territory occupied by a state of a higher degree in development. Thus, for instance, a movement of Chinese or Africans to the United States might be a migration, but would not be colonization, as it would lack the element of an influence brought to bear by a higher upon a lower civilization. Moreover, as long as this influence is exerted, colonization is present though the actual settlement of persons in the region affected be small. Colonization must, therefore, be viewed as a part in the process of evolution by which the more perfect forms of civilization draw into their orbit those which are less highly organized.

In political discussion, the term "colony" is not generally employed unless a bond of political connection or allegiance exists, and it is in this sense that we shall use it hereafter; although we may also consider the other types of colonies in so far as they lead up to the colony *par excellence*, which is also a political dependency. This latter term, however, is often understood to embrace more than colonies, where the word "colony" is interpreted strictly according to its original meaning as a set-

tlement. Thus Sir George Cornewall Lewis objects to the interchangeable use of the terms "colony" and "dependency" on the ground that the latter is more inclusive than the former — that India, for instance, is a dependency and not a colony. But when we consult the usage of current political discussion, we find that the name of colonies is quite generally applied to outlying dependencies, such as India, the Philippine Islands, or Indo-China, although in them there has not been much displacement of the native population by immigrants from the mother country. Hence, a definition which would conform to the general usage of the present time would read somewhat as follows: A colony is an outlying possession of a national state, the administration of which is carried on under a system distinct from, but subordinate to, the government of the national territory. The colony may be settled by citizens of the mother country and their descendants, or it may be peopled principally by another race, but in every case the government of the colony must acknowledge some form of allegiance to the mother country.

Nor is this extension of the term "colony" to cover all dependencies purely a matter of simplification or convenience; for it emphasizes the fact that some settlement, some movement of population, is always necessary if any success is to be attained in the work of colonization. However, though general usage has made the two terms interchangeable, they still indicate a radical distinction between two

classes of possessions, a distinction which is the true basis of any logical classification of colonies for purposes of government. All colonies may, according to this distinction, be divided into settlement colonies and exploitation or investment colonies.

Settlement colonies are those in which the original population has been largely or entirely displaced by emigrants from the mother country, who settle in the new region and engage in agriculture and the other arts of industrial life. The principal examples of such colonies are Canada, Australia, the Cape of Good Hope, and the original Thirteen States of America, all situated in the moderate zone.

The exploitation colonies, on the other hand, are found in the tropics, where small numbers of Europeans undertake the development and management of natural resources. They may be subdivided into three classes; or rather, there are three phases of growth through which an exploitation colony may pass, — namely, the commercial, the agricultural, and the industrial. In the original colonization of India, of Africa, and, to a certain extent, of Spanish America, commercial enterprise was a primary motive. This is especially true of the original colonial activity of the Dutch, the Portuguese, and the English; and even at the present time the importance to the mother country of such colonies as Hongkong, the Straits Settlements, Indo-China, and Tunis is based chiefly on commercial reasons. The second class, the agricultural or plantation

colonies, in which the citizens of the mother country settle as proprietors or managers of large plantations, are exemplified best in the islands of the West Indies, Ceylon, Java, and the colonies of tropical Africa. Finally, industrial exploitation colonies are those whose soil is already completely occupied by a native agricultural population, where, therefore, the utilization of forests and mines, the building of railways, and the establishment of manufactures constitute the chief activity of the settlers from the mother country. This phase is a recent development due to the superabundant energies and means of the capitalistic civilization of Europe. As examples of colonies in which this last phase is most prominent, or destined to be so, we may mention India, Egypt, Malaysia, and the Philippine Islands; that is, colonies in which there are unexploited natural wealth and industrial opportunities, together with a large agricultural population.

It would, of course, be difficult to find any colony which is an absolutely pure example of any one of the above classes, as the activities that characterize the three phases are always found together. But any given colony usually exhibits one of the above characteristics more markedly than the other two, and thus colonizing activity within it is primarily commercial, or agricultural, or industrial. Hongkong, Jamaica, and Burma would be good examples of these three phases. The industrial phase is, however, becoming constantly more important throughout the colonial world.

Many other classifications of colonies have been made. Roscher divides them into four classes — colonies of conquest, of commerce, of agriculture, and of plantations; the distinction between the last two classes is that the former implies settlement and tilling of the soil, the latter merely the control of large landed estates. Fabri distinguishes three classes, agricultural, commercial, and penal colonies. French writers generally distinguish *colonies de commerce*, *colonies agricoles ou de peuplement*, and *colonies de plantation ou d'exploitation*. But as will appear when we consider the political problems of colonization, the division into two classes, — settlement colonies and exploitation or investment colonies, — corresponds most nearly to the physical facts as well as to the actual institutional developments.

A complicated, but highly suggestive, classification is that made by Professor Schäffle. Starting from the premise that all colonization is the exertion of influence by a higher upon a lower grade of civilization, he divides the manifestations of this activity into classes according to the distance between the relative degrees of development which the two societies — the subject and the object in the colonizing process — have attained. As there are five degrees of civilization, — the rural clan, the feudal society, the city state, the territorial state, and the national state, — there is an almost kaleidoscopic variety of possible relations. Thus, when a society that has reached the

fifth degree of development, which expresses itself in national life, colonizes in an unsettled region, we have colonization of the fifth degree; when its operations are carried on amid a population that has not passed the rural stage, such as the native societies of Africa, the colonization is of the fourth degree. The colonization carried on by the Greek city states among the autochthons of Italy would be of the second degree. Professor Schäffle makes, moreover, the interesting suggestion that actual colonization, though the final result may be of the fifth degree, is always of one degree only. Thus, *e.g.*, the emigrants from Germany who start out to settle new regions come, not from the city of Berlin, which represents the fifth degree of civilization, but from the rural regions which, even in a national state, continue to represent the first degree. Every nation is thus, in his view, composed of strata of population which still represent the successive historic stages through which the nation has passed, and it is only from the lowest strata that colonization to uninhabited regions is undertaken. Regions where some form of society is already established are colonized chiefly by that part of the population of the colonizing state which represents the next higher degree of civilization. Though suggestive in a discussion of the philosophy of colonization, this classification could hardly be made the basis of practical distinctions in establishing colonial institutions.[1]

[1] See Schäffle, *Deutsche Kern- und Zeitfragen*, pp. 168 ff.

Where a nation settles the unoccupied regions within its own national territory, or displaces a population of alien origin settled therein, the process is similar to colonization, and is indeed often called "inner" or "internal" colonization. What distinguishes it, however, from true colonization is the fact that it constitutes a direct extension of the body politic of the mother country, and does not become the source of founding distinct though subordinate communities. The expansion of the German race over East and West Prussia and Posen, the settlement of the Siberian steppes by Russian peasants, and of the Great West by American farmers, is not colonization, but a direct and immediate growth of the body of the nation. The land thus occupied is an integral part of the national territory, and though exceptional political arrangements may be made temporarily, the uniform administration and polity of the state soon embraces the newer regions.

There still remain to be noticed some peculiar usages in connection with the terminology of colonial politics. In English legislation and official documents India is never called a colony, but is always treated as a separate empire dependent upon Great Britain. Moreover, its affairs are not administered through the Colonial Office, but by the Secretary of State for India. This terminology and practice is due to the fact that India is very far from being a colony in the original narrow sense of the term. The vastness of the Indian

realm, the large populations inhabiting it, the ancient civilizations of which it is the home, — all these facts have caused the term "colony" to seem out of place. The old and settled societies, which constitute the Indian Empire, do not readily yield full sway to the English in all commercial, industrial, and social matters. Though supreme as far as government is concerned, the English do not have control of the wealth of the country to the same extent as in such colonies as Jamaica and Ceylon, where they are also only a small minority of the population. With the construction of railways and with the development of industries under British initiative, India is, however, becoming more and more a colony in the technical sense of the term; and it is in fact doubtful whether it would permanently remain a British possession unless the English could continue to make themselves constantly more useful, and indeed indispensable, in guiding the economic development of their great dependency.

The French, in general as well as in scientific discussion, embrace all their dependencies under the name of "colony," with the exception of the protectorate of Tunis and the provinces of Algeria; although in some of them, for instance in Indo-China, they have far less of an economic hold than the English have in India. Much of the trouble which France has experienced in her colonial affairs is due to the fact that nearly all her dependencies have been dealt with as if they were colonies settled

by Europeans. Moreover, Algeria, which among all the French possessions comes nearest to being a settlement colony, is not treated as a colony at all, but has been made an integral part of France, *un prolongement de la métropole;* it enjoys representation in the French parliament and is divided into departments with a full hierarchy of French local officials.

German terminology goes to the other extreme. The official designation of all colonial dependencies is "*Schutzgebiete*"—*i.e.*, protected territories. The use of this term is due to the original character of the German colonial movement. Before 1885 it was the fixed purpose of the German government to avoid direct colonization on the French model, with all its military and official machinery, and to go no farther than to protect German enterprise, commercial and industrial, in the regions beyond the sea. This idea, though soon abandoned in practice, has nevertheless left a marked impress on the subsequent colonial policy and terminology of the German Empire. The use of a term which does not imply the exercise of territorial sovereignty has also been found very convenient for the purpose of avoiding difficulties of constitutional law.

GENERAL REFERENCES

The limits of space forbid an attempt to give a complete bibliography of colonial politics. But at the end of each chapter the most accessible and helpful literature on the topic presented will be indicated. At this place there is given a

list of the most important general material on colonization contained in the principal treatises, governmental reports and documents, special periodicals, and in the publications of societies devoting themselves to the study of colonial affairs.

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CHAPTER II

MOVEMENTS OF POPULATION

ALTHOUGH it is but natural to look upon overpopulation as one of the principal causes of colonial enterprise, when we scan the history of colonial origins, we cannot avoid the conclusion that the determining factors in the genesis of colonies must usually be looked for elsewhere than merely in the crowded condition of some of the older countries. Thus, among the Greeks, discord and incompatibility at home were a more potent cause of emigration to the colonies than the overcrowding of the cities. Such incompatibility with the surroundings, and longing for independence, has always been the most common cause for emigration, especially in cases where emigrating currents are first started toward new regions. Religious discord and oppression not only brought the Puritans to New England, but also caused the great emigration movement among the Lutherans of Germany, who left their home to escape enforced union with the Reformed Church. The emigration of the Irish people is also due rather to dissatisfaction with their institutional and economic surroundings than to the absolute failure of the Irish soil to

support its population. In general it may be said that mere over-population produces only stolidity and weakness, and that the impulse to venture into new lands, especially before a regular current toward them has set in, must be given by some other condition or incentive.

Population movements, moreover, even those directed to true settlement colonies, are generally overestimated as far as their exact numerical strength is concerned. Thus the millions of French Canadians trace their descent, in the main, to no more than 10,000 original settlers. Even at the time of the Quebec Act of 1775, the French population of Canada counted only 70,000. The small number of the original settlers in South Africa is indicated by the fact that there are only a few hundred family names among the Dutch and Huguenot population of that region. While the present white population of British South Africa reaches the figure of about 800,000, it would certainly be a liberal estimate to put the total immigration into that region during the past century at 150,000. In exploitation colonies, of course, the movement is of still smaller importance as far as numbers are concerned. Thus out of the 294,000,000 inhabitants of the Indian Empire, less than 300,000, including the military, are of European origin.

In many cases, population movements have been started by force, or by the offer of unusual inducements. Under the colonial régime of Colbert,

when the most important French settlement colonies were founded, both means were employed in order to gain colonists for Quebec, Louisiana, and the West Indies. Under Richelieu, in 1627, the Company of New France was granted a charter only upon condition that it would induce 4000 colonists to settle in America. Most of the colonists thus enlisted came from the dependent classes; they were as a rule hired out to colonial planters as indentured servants for a period of three years. Women were generally supplied from the orphanages of Paris and of the large provincial towns. The Dutch, likewise, relieved the absence of women in their South African colony by the importation of orphan girls from Amsterdam.

In this connection we should also note the penal settlements, which were formerly an important means of colonization, and which have often been used as a first step in the development of new regions, as in the case of Siberia and Australia.

At the present time none of the great colonizing nations except Russia and Germany are suffering from over-population of their national territory to such an extent as to make this situation a primary factor in their colonial politics. It is, however, assuredly to be expected that the teeming population of Germany, confined to a narrow European territory and lifted above the condition of a mere crowded mass by a superior education, will continue to be a conspicuous factor in future colonial enterprise. The Russian movement across the plains of

Siberia must be considered as purely internal colonization, because the country settled is treated as an integral part of the Russian Empire and as coördinate with European Russia.

Though over-population has not been a primary motive in colonization, yet the question of population is an important one, as a stationary or retrograding people cannot reasonably expect to spare sufficient energy for colonial enterprise and to meet successfully the constant drains on "human material" which it is sure to impose. French writers claim that it is not necessary for France to have an increasing population in order to be successful in tropical colonization, where so few actual settlers are needed. Still, it would seem that, though crowding at home is not of itself sufficient to cause colonial movements, nor necessary for temporary success, a nation that is declining in numbers cannot hope to compete successfully in the long run with one that has an abundant reserve of energy. Colonization is more than a merely cerebral and directive function that may be exercised from a metropolis without the expenditure of large amounts of human energy and life-blood.

Another important consideration that should be touched upon here concerns the territorial limits within which the white race can hope to expand. It is generally assumed that the tropics are not a favorable field for permanent occupation by European settlement colonies. In these regions members of the white race must confine themselves to direct-

ing agricultural and industrial operations, because the insalubrity of the climate and the excessive heat render the performance of ordinary labor possible only to such races as the negroes, Hindus, and Chinese. The data which we possess are, however, not sufficient for final conclusions as to the actual impossibility of such settlements. Very many whites live in great comfort in the tropics, enjoying excellent health, and satisfied with the comparative ease of their existence. The frequent and unmistakable degeneracy of whites, which is found everywhere in the tropics, is due perhaps rather to the absence of favorable social environments than to climatic conditions. In the tropics, European settlement on a large scale has, of course, never been given a real trial, and the presence of malaria would appear to render such an experiment futile. Should it, however, become possible, through the extermination of the malarial mosquito, to put an end to the unhealthfulness of the tropics, there would seem to be no longer an absolute barrier to extensive settlement by white colonists in some parts at least of the tropical world. Subtropical regions, with almost tropical climate, such as Natal, have already been turned into most agreeable and healthy abodes for Europeans. Still, there does not as yet exist sufficient pressure of population to cause the white race to push into the heart of the tropics. Under present conditions this part of the world is, therefore, still regarded, for purposes of practical politics, as unfit for

settlement colonies — a very important fact when forms of government come to be considered.

Which among the non-European races is actually to inhabit the tropics, developing their agricultural and commercial wealth under the direction of the white race, is a question which is eliciting much speculation. The negro race, while endowed with a splendid physique and with great power for work, is neither progressive nor inclined to submit to regularity of toil, such as an industrial civilization demands. While not equal to them in bodily strength, the Hindus and the other races of India are very docile and painstaking laborers; they also readily engage in commercial pursuits, and have in the capacity of contract laborers or merchants invaded, not only Mauritius and East Africa, but also the West Indies and British Guiana. The Chinese are the most energetic among the races that are ready to take up the heavy burden of ordinary manual labor in the tropical regions. In the Philippines, Burma, Indo-China, and the Straits Settlements they are already so numerous and so nearly indispensable, their operations have been so successful, that they appear to have a fair chance of becoming the most prominent part of the population of the Oriental tropics. Large numbers of them have also found their way to Mexico, the West Indies, and South America. Their ability to accommodate themselves to any environment, notwithstanding the tenacity with which they cling to their customs, and to live and flourish in any cli-

mate, makes them much sought after as workmen in the construction of great industrial improvements in the tropics. They are used as contract laborers in most tropical colonies, and when they have once gained a foothold, they rapidly enter other fields of activity, especially as retail merchants and small farmers.

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CHAPTER III

MISSIONARY WORK

The spirit of missionary propaganda is one of the most prominent motives that have led to original colonization in modern times. When the Spanish began their career of colonial conquest, they had just accomplished the expulsion of the Moorish Moslemites from Castile. The enthusiasm which had been aroused by this warfare was by no means exhausted, but it still sought other outlets for its energies. The adventurous seamen who carried the Spanish insignia to the most distant parts of the globe had all registered their vows to assist in the propagation of the Christian faith. Thus in Spanish and Portuguese colonization the *conquistador* and the missionary went together and worked hand in hand. Upon their methods it is not necessary here to pass judgment; we but intimate the close connection of missionary work with colonial enterprise. Similar motives animated the founders of French colonial greatness. The patent granted by Louis XIV to the French Company of the West, in 1664, contained the provision that as "the glory of God is the chief object in view, the company is required to supply its pos-

sessions with a sufficient number of priests and diligently to exclude all teachers of false doctrine."

In the early activities of English colonization we find the same union of religious and secular aims. Sir Humphrey Gilbert, who established the first English colony in America, avowed the principle that the "sowing of Christianity must be the first intent of such as shall make any attempt at foreign discovery." In the sermon which was preached to celebrate the foundation of the Virginia Company, the minister, Crashaw, insisted upon the duty of the colonists to bring the savages within the fold of Christianity; and the royal ordinance accompanying the charter of the company prescribed that the president and council should provide that "the Word and Services of God should be preached, planted, and used" in the colony. The possessions of the East India Company, which had also at its foundation been exhorted to propagate the gospel,[1] were the only regions among the early English colonies from which missionary endeavor was excluded; for it was not until 1813 that missionary work was allowed to begin in India.

In the modern movement of expansion and col-

[1] It was a common thing to have a sermon preached by some prominent minister at important meetings of the trading companies. See, *e.g.*, Crashaw's sermon in Brown, *Genesis of the United States*, p. 371, and J. Hughes, *Sermon preach'd before George, Earl of Berkley, Governor, and the Company of Merchants of England, trading in the Levant Seas, at St. Peter's Church in Broadstreet, November 18, 1683.* London, 1683.

onization, the importance of missions has by no means diminished. In all parts of the world the missionary has preceded the tradesman and the magistrate, often unintentionally preparing the way for them and making their operations possible. During the last two hundred years fifty-four missionary societies have been established in Great Britain alone, most of which are still active in foreign and colonial fields. Through the work of missionaries the British Empire obtained its first foothold in many of its most important colonies, such as Australia, Fiji, South and Central Africa, Sierra Leone, Burma, and Guiana. In all these regions missionary stations were established long before regular trade communications or political control came into existence.

The French established their first relation with Farther India in 1741, when Pigneau de Behine went to Cochin China as bishop and leader in a missionary movement. The French missionaries continued their activity in this region uninterruptedly, often against serious native opposition. When, in 1862, a popular uprising took place and a number of missionaries were massacred, the French government intervened, and established its political dominion. In the West African colonies which were acquired through the forward movement begun by General Faidherbe in the fifties of the last century, the missionaries, as the leader of the movement himself testifies, were a most powerful aid in the expansion of French influence. In

a recent official publication, facts are brought out showing that missionary work was practically the cause that led to the establishment of the French protectorates in Oceanica.[1]

An honorable privilege which the French nation has claimed for centuries has at the present time received new importance. This is the protectorate over the Roman Catholic missions and Christians residing in the Levant and throughout the Orient, which the French government has exercised since the time of the Crusades, and which has been ratified repeatedly by the Roman Curia, as well as by the Porte in the capitulation of 1536 and in subsequent treaties. Through this protectorate, the execution of which is intrusted to the French consuls in the Orient, the French have acquired a large influence throughout the region of the eastern Mediterranean. As the French ecclesiastics and missionaries have been careful to avoid every appearance of proselytizing the Moslems, and have confined their missionary work to the Armenian population and to other Levantine Christians, they have not encountered any serious obstruction on the part of the Turkish government, and at present their missions still enjoy a predominating influence in this region. Twenty-five hundred out of the three thousand persons of European nationality who are engaged in teaching and missionary work in the Levant are French, or belong to French orders and insti-

[1] Henrique, L., *Les Colonies françaises.* Vol. IV.

tutions. They manage and support four hundred schools, which are attended by some forty thousand pupils, and in which instruction is given in the French language. This latter purpose the French government aids by an annual subvention of half a million francs, and it is also supported by the efforts of the French Alliance, a society for the propagation of the French language and civilization in foreign parts.

Attacks on this protectorate, which has been gaining in political importance in the eyes of European statesmen, have been made from various sources within the last decade. Thus the Italian missions, which enjoy a government subvention of 1,400,000 francs annually, silently work against French control, although they are still formally embraced within the French protectorate. The German Emperor, moreover, has made repeated attempts to secure at least a part of this privilege of a protecting power for his government. Through the German party among the cardinals at the Vatican, he has tried to obtain the papal sanction for a protectorate, at least over the German Catholics in the Orient and the Levant. Failing of this, he waived the mark of official approval from this source, and proclaimed that it is the duty and privilege of the German Empire to protect its missionaries, whatever faith they may profess, and in whatever part of the world they may be working. Germany has also been trying to establish other relations which would counteract the French influ-

ence in the Levant. In this matter she is counting especially upon the strong feeling of hostility between the Armenian clergy and the Latin missionaries — a feeling which is due to the fact that the latter do not recognize the rites of the Armenian church. The Patriarch of Jerusalem has recently, on repeated occasions, shown himself as friendly to Germany as he is hostile to the French, to the Russian, and to the Italian clergy.

Russia, ever watchful of all possible opportunities to extend her influence, has not overlooked the importance of the missionary question, and she gives the most active support to the numerous Orthodox popes who are engaged in the work of establishing missions and schools throughout Asia Minor and Syria. In this field, which by common agreement will be of great importance for colonization in the near future, the European nations are, therefore, using the missionaries as pickets or advance guards for the solid phalanx of national power by which they hope in due time to render impregnable the position thus cautiously approached.

This method of utilizing missionary work for political purposes has been nowhere employed with less reserve than in China. As is well known, Germany obtained her first foothold in Kiao-chau in consequence of the murder of two German missionaries. In the negotiations growing out of this matter the German government procured the lease of the harbor and bay with the

adjacent territory, and it also obtained extensive mining and railway privileges in the rich province of Shan-tung. In southern China, the French in a similar manner, and with equal boldness, secured a mortgage on the country and its resources. As compensation for the murder of a missionary, they obtained mining rights in six governmental districts of Sze-chuan, together with other valuable privileges. In the famous case of Père Berthellot, they avenged a like outrage by claiming the right to construct a railway within the two provinces of Kwang-si and Kwang-tung. This latter concession is the chief basis of their privileged status in southern China.

With the growth of colonial expansion there has also come a movement to make the missions more specifically national, and within a given colony to encourage those only which have their source in the mother country. Others, while not openly forbidden — though even this policy has been frequently suggested — are often obstructed in their work, and thus driven gradually to abandon the field. The German colonial administrators in Africa claim that the existence of English missions is not favorable to the firm establishment of German rule, and advise a policy of cold neutrality. The French in their territories in northern Africa show a similar disinclination to harbor English and American missions and to protect them in their operations. French writers are unanimous in their indignation at the political activities of the

English missions in Madagascar, before the annexation of the island to France had been accomplished and while there was still a chance for the establishment of British influence.

With respect to missionary work, native populations may be divided into two classes: those who already have a high civilization, such as the East Indians and the Chinese, and those who are still in a state of barbarism or savagery. Among peoples of the former class the actual results of missionary work, as far as numbers go, are inconsiderable. Under such conditions, therefore, the colonizing state cannot utilize the work of the missionaries for the purpose of obtaining political control over the native population. It is for the purpose of gaining a foothold in the country, through the right of protection which may be eventually exercised as against the native government, or to defeat claims of other foreign nations, that the missions here become politically important. In more backward regions, however, the way for the achievement of direct political control over the native peoples is often effectually prepared by missionary influence. This has been true especially of the islands of Oceanica and of many regions in Africa, where the missionaries obtained an ascendency over the native populations which could easily be turned into control exercised by political officials and magistrates.

Another factor in the political importance of missions is that in the great struggle between

Islam and Christianity which is being waged throughout Central Africa, the missions must remain the principal reliance against the growth of Moslem ascendency. On all its boundaries Islam is steadily advancing, not only in Central Africa, but also in Asia; moreover, it is constantly developing an internal cohesion which may in time bring the Moslems in all the vast region from the Niger to the Ganges into a conscious unity of purpose. While the dangers from this source may easily be exaggerated, as the radical dissensions that still divide the Mohammedan world are often overlooked, it is nevertheless a question which neither French nor English statesmen are inclined to view without some apprehension.

There can be little doubt that the success and the moral authority of missions is being jeopardized by their connection with politics, and by the political purposes which, often against their will, they are made to subserve. The missionary who goes forth unaided to face countless hardships, and to battle against the hostility of nature and of savage men, merits the respect of all, and gives the best kind of guarantee of his aims and intentions. But when the State stands ready to turn his high-minded and unselfish heroism into a source of material gain to itself, and to make use of it for purposes of national expansion, there is danger that the missionary may lose moral power and be looked upon as a mere political emissary. Moreover, the unity of Christian missionary work is liable to

be destroyed by having its field of work broken up arbitrarily into national areas. Tendencies such as these should be earnestly discouraged in order that the missions may retain their value as agencies of redemption and improvement. Missionaries in all parts of the world are voicing their opposition to the close connection of missions with politics, which destroys the confidence of the natives and robs the missionary of his influence as a protector of the native against every kind of exploitation.

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CHAPTER IV

INDIVIDUAL ENTERPRISE, EXPLORATION, AND ADVENTURE

THE spirit of adventure has always been most prominent among the motives that impel men to seek new fields of activity through colonial enterprise. Thus it was among the *conquistadores* and sea rovers who led the way in the earlier movement; thus is it to-day among the forerunners and advance guards of national expansion. When in the great feudal wars of the fifteenth century the modern nations had been moulded, the abundance of a youthful energy sent the men of Europe out to explore and conquer new realms. The same spirit is manifested again at the present time. After a century of domestic development, of European warfare and struggle, the family of nations has been completed, and again adventuresome men go abroad to subdue and render useful to themselves regions which even twenty years ago were absolute blanks on the map. The Old World has become too narrow, and its restless spirits seek other theatres of action, where opportunities are more alluring and where conventionalities less fetter their adventuresome inclinations. They go forth

to explore the wilds of Central Asia and Africa, to conquer warlike tribes, and to establish great industries and settled government.

Among all classes of Europeans great interest is felt in this movement, but among none of them is it so strong as with the nobility. Their latent sense of adventure is stirred, and they see the opportunity of regaining in new fields the importance and power which has been slipping away from them in European affairs. In the societies for the advancement of colonial interests and for the study of colonial problems, such as the International Colonial Institute of Brussels, members of the nobility always take a prominent part; and though the greatest leaders in colonial achievement — men like Rajah Brooke, Cecil Rhodes, Lord Cromer, Sir George Taubman Goldie, and Sir Bartle Frere — have sprung from the middle classes, still, among those who are engaged in colonial enterprise a remarkable number is composed of the "younger sons" of noble houses. Mr. Labouchere has accordingly taken great delight in being able sarcastically to characterize the whole movement as "outdoor relief for the nobility."

The desire for geographical exploration has been a strong motive from the earliest navigators, who thirsted for a knowledge of unknown worlds, down to the most recent travellers in Africa. Of late the achievements of such men as Livingstone, Stanley, and Nachtigal have done more than anything else to interest the entire world in the life and character

of new regions. Explorations of this nature have not infrequently led also to consequences which were more directly political. The French explorers of northern Africa, together with the missionaries, prepared the way for a sweeping political occupation. Indeed, in many cases the scientific work of an expedition of this kind is merely a veil to its true political purpose. Thus the "scientific mission" of the Russian Captain Leontieff to Abyssinia in 1894 was immediately recognized as having a political aim.

The German nation has produced many prominent travellers, explorers, and geographers. From Humboldt and Ritter down to Major v. Wissman and Dr. Gerhard Rohlfs, these men have been filled with an intense enthusiasm for exploration. They have prepared the German people for the entry into colonial politics, and have awakened among them a deep interest in transmarine countries and affairs. The joy of becoming familiar with strange civilizations in far-away regions animates even the most modest clerk who joins the forces of a German colonial or foreign mercantile establishment.[1]

In many cases the energies of the adventurer are given direction by some other purpose, such as the gaining of wealth, or the acquisition of political power. The great explorer La Salle is one of the

[1] Joubert says in his *Pensées:* "Propose a conquest to the Spanish, enterprise to the English, discovery to the German, profit to the Dutch, and dashing success to the French."

most ideal figures among this class of men. More directly political were the activities of De Soto, Pizarro, and Cortez, who, with all their soldierly and political ambitions, were imperiously urged on by an insatiable thirst for gold. These men stood high in royal grace and official position; yet they were doing the same work and were animated by the same motives as the lawless Buccaneers who did so much to establish French and English power in the West Indies. The founders of British empire in Asia and Africa were engaged primarily in trade and exploitation. They, too, were not always over-scrupulous in their choice of means. Sir Josiah Child resorted to very questionable methods in his attempts to infuse life into the declining body of the old East India Company; while Warren Hastings became a victim to the sentiment of disapproval which the policy he had found necessary, provoked in England. Sir Stamford Raffles and Sir Andrew Clarke, the men who gave England her hold in the farthest Orient, Sir George T. Goldie and Cecil Rhodes, the builders of empire in Africa, belong also to this type of men, on account of their unfailing resourcefulness, their personal power and fearless initiative, and their readiness to assume great risks. In general their methods have been more scrupulous than those of the earlier pioneers, although this cannot be said of all of them.

Another class of adventuresome spirits, who have been a potent force in building up the em-

pires of to-day, are the military men, who, stationed at frontier outposts, allow their ambition to carry them into undertakings for which they assume the sole responsibility if unsuccessful, but which, should they succeed, will readily be ratified by a grateful home government. Of this nature was the activity of the French officers in North and West Africa, — Faidherbe, the Count de Brazza, and their associates and successors, — who, combining the explorer's longing with the enthusiasm for national expansion, pushed out the French frontier farther and farther, until it included the greater part of northern Africa. For England, great and lasting results have been achieved by such men as Rajah Brooke, who by single-handed effort created for himself an empire on the island of Borneo through successful military services to the Sultan; and Sir William Sandeman, who gradually extended British dominion over many frontier tribes of Baluchistan and Afghanistan without offending native susceptibilities, and thus fortified the Indian Empire where it had been weakest.

But it is especially the Russian military men who have won for their country great stretches of new territory by their own unauthorized initiative. In this manner Muravieff Amurski acquired for Russia the vast region which was formerly northern Manchuria and is now the Amur Province; he acted entirely without authority, and it was some time before the Russian government decided to

ratify his action. The officers in Central Asia have been even bolder in their advance. When Chernaieff was besieging Tashkent, he received a despatch from Czar Alexander II. Guessing that it contained the command of the peace-loving monarch for raising the siege, he pocketed the message unread, made another and successful assault upon the city, and when he had entered it, wrote the Czar that his order had arrived too late. Although he was deprived of his command on account of insubordination, his achievement was of the greatest assistance in laying the foundation of the Russian power in Central Asia. Skobeleff and Kurapatkin acted in a similar spirit of self-reliance and independence, when they were planning and executing the final conquest of the Turkomans.

In such various ways individual enterprise has carried on explorations and broken paths so that settled and orderly relations of commerce and political control could be established. The State has usually held back, not wishing to place itself in a questionable and risky situation. Bold and enterprising individuals have thus often succeeded in achieving for the State a position which it could assume without danger to itself, and from which it could draw the greatest advantages. This is the normal progress of national expansion. Adventuresome individuals act as outposts to prepare the way for a steady current of trade communication; finally, when interests of sufficient magnitude

have been established, the State appears as a protecting power. As will be developed more fully later on, this older method has of late in many cases been reversed, and under the policy of "staking out claims for posterity," State action, with all its crudeness and inflexibility, has taken the place of individual enterprise.

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CHAPTER V

COMMERCE AND COMMUNICATION

I

It is of some importance to determine how far the desire for the establishment of commercial relations has been a primary motive in the colonizing activities of the European nations. Regular commercial intercourse with countries of a low political organization does not necessarily lead to political consequences, nor does the extension of political influence over such regions proceed always from the purpose of creating new outlets for trade and industry. Still, the politics of colonization involve commercial considerations to such an extent that it becomes necessary to fix the relations of the two to each other. While the scope of this treatise does not include a discussion of commercial policies, it calls for an inquiry as to how far commercial motives have in the past actually induced nations to colonize, and also to what an extent the present movement of colonial expansion is connected with the search for new markets.

The early Spanish colonial leaders had but little desire to establish *bona fide* commerce; it was rather their effort to acquire in the shortest pos-

sible time the gold and other precious products of the American mines. Although a certain kind of commerce grew out of this exploitation, it was not allowed to develop naturally, and remained a narrow monopoly of the crown. Portuguese colonial enterprise was far more commercial in character, partly because the Portuguese took more readily to seafaring than did the Spaniards, partly on account of the special opportunities afforded by the regions in which the Portuguese colonized. Their relations were chiefly with the Orient, the many valuable products of which naturally led to a diversified commerce. Holland had already developed a complete commercial system and a European carrying trade before she entered upon the acquisition of territorial possessions. When the power of the Portuguese waned, and the Dutch had become their successors, they treated their opportunities in as narrowly commercial a spirit as that of the Carthaginians. They looked upon their colonies simply as a basis for profitable trade, and their lack of a true perspective and of effective political action lost them Ceylon and the Cape of Good Hope. In their commercial methods they did not, however, employ the crown monopoly, but the chartered company composed of private stockholders. In this manner they were enabled to engage the accumulated wealth of their country in the work of colonization. But in the exclusiveness of monopolistic privileges they, too, went as far as legislation could go.

The French, during the early period of modern colonization, showed great aptitude for commercial enterprise. The Breton fisherman on the banks of Newfoundland, and the *coureurs de bois*, who tracked the pathless forests of the American continent, were, together with the French missionaries, the first forerunners of the permanent occupation of the New World by Europeans. Had it not been for the weakening of France by the expulsion of the Huguenots, and for the hopeless corruption of the royal government which left it no strength for, and no interest in, the enterprises of the great colonizers, France would have fought a much stronger battle for primacy in colonial affairs. The French Revolution was not the most calamitous result of the abuses of the French government; that must be looked for in the loss by France of her position as a world empire.

The English appeared on the scene at a time when they could reap the fruits of the experience gathered by the other nations. In India they superseded the French and the Portuguese, in Ceylon the Dutch, in Canada the French. The greater part of the British Empire was acquired with the assistance of merchant adventurers: they set in motion the stream of colonists which flowed into North America, they organized the great company that gave England control of India. The latter country is of all colonial dependencies the best instance of a possession acquired through the sole initiative of commerce.

Throughout this earlier period the scope and character of colonial commerce was entirely unlike that of the present. The purpose which animated the European merchant was not so much to discover or create a market for manufactured goods, as to obtain the valuable produce of the rich regions beyond the seas. To-day the primary object is the search for markets, and the chief purpose of commercial expansion has come to be the desire to dispose of the surplus product of European industry. The emphasis has shifted from what could be obtained of the natives to what can be sold to them.

For the above reason the commercial policy of the seventeenth and eighteenth centuries did not aim so much to encourage the development of the colonies in order that they might become better purchasers, as to make sure that all the produce of the colonies should be shipped to the mother country, if the latter could profitably employ it. After the American colonies had freed themselves from this system by revolution, they continued to purchase British goods in constantly increasing quantities. This most striking object lesson was, however, not heeded by Europe, for the Navigation Law system as well as the French *Pacte Colonial*[1] were adhered to till long after. When finally, about the middle of the last century, the sentiment of free trade grew so strong that these restrictive systems were

[1] The granting of exclusive privileges to the mother country in the colonial markets, with favorable treatment of colonial imports.

abolished, there also came the era of apathy toward the colonies which we have already discussed. The assurance of commercial gain and of exclusive commercial privileges seemed to most men of that period the only true basis for national expenditure on colonies. This condition having failed, they saw no further reason why a state should desire colonial possessions.

At the present time the tendency of commercial policy is again toward greater restriction. Hence, in the discussion of colonial affairs, the commercial side is always emphasized. This is due chiefly to the fear of a returning exclusiveness, such as is exemplified in the policy of France and Russia. Were the world to be divided up into a number of mutually exclusive, trade-tight compartments, each nation would as a matter of self-preservation feel compelled to occupy as much as possible of the still available territory. Whether, unless such a policy were actually impending, the advantages accruing from a mere possession of territory would confer an adequate advantage to justify the great expenditure of energy and wealth now incurred for this purpose, is questionable. While we cannot discuss in detail the volume of colonial trade and the actual commercial relations existing between the colonies and the mother country, we must briefly investigate the problem as to how far commercial advantages may be said to result to the mother country from the political control of dependent territory.

In discussions of the question as to how far trade follows the flag, three kinds of statistics are used; and according to the impression left by the class of data employed, people are inclined now to value the commercial importance of colonies very highly, now to dispute it altogether. When the total volume of colonial trade is compared with the entire commerce of the world, it seems comparatively insignificant. Thus, for the period from 1892 to 1896, the colonial trade amounted to only 11.6 per cent of the total recorded trade of the world. The conclusion which is to be drawn from these figures is that the trade among the great civilized nations is of so much greater volume and importance than the total of colonial trade that it should be the first purpose of intelligent statesmanship to foster friendly and stable relations among the great powers; and that a policy which would endanger the participation of a country in the great market of the civilized nations, in order to acquire a petty market among savage, or semi-civilized races, would be nothing less than self-destructive folly. The economic welfare of the world depends chiefly upon the continued industrial efficiency of the great nations, and upon the maintenance of such relations between them as will prevent the wasting of energies upon unproductive expenditures. Where the true economic interests of a country lie may be seen, in the case of France, from the statement that her entire colonial commerce in 1897 amounted to but 9.8 per

cent of the total; and while her exports to England were valued at 1443 million francs, and to Germany at 443 million francs, the figures in the case of Algeria and of Indo-China were only 235 and 31 million francs respectively. During the decade between 1887 and 1897, a period of great colonial activity with the French, the proportion of the colonial to the total trade of France increased by only 3.5 per cent.

When, however, we look at commerce from the point of view of the colonies themselves and determine the share in colonial trade which falls to the mother country, we find that it constitutes a very considerable part of the totals. Thus, for instance, 30 per cent of the trade of Indo-China, 83.7 per cent of the trade of Algeria, and 57.9 per cent of that of Tunis, are with France. Great Britain enjoys 52 per cent of the trade of British Guiana, 62 per cent in Natal, 44 per cent in Canada (33 per cent of imports, 55 per cent of exports), 69.5 per cent in Australia, and 53 per cent in India. Seventy per cent of the trade of Southwest Africa is with Germany. The proportion of French trade to the total in Indo-China has risen from 16 per cent in 1890 to 30 per cent in 1899; in 1886 the imports amounted to 85 million francs, of which 80 per cent were from foreign sources; in 1898 the imports were valued at 102 million francs, while the foreign percentage had fallen to 56 per cent. French imports into Indo-China had risen from 15 million francs in 1886 to 44 million francs

in 1898. On the other hand, however, the imports of Great Britain into Cape Colony fell off from 81.7 per cent in 1891 to 71 per cent in 1897, while in Natal the decrease between the years 1892 and 1899 was from 78 to 65 per cent.

The third kind of statistics which is used in arguments and discussions concerning colonial trade shows the *per capita* consumption of imported goods by the inhabitants of colonies and of foreign countries. It is thus made clear that, man for man, the inhabitants of a colony, as a rule, buy more of the mother country than the people in foreign lands. The *per capita* consumption of British goods by the people of various colonies and foreign countries in 1900 is given below: —

Victoria	$28.59	Chile	$5.60
New South Wales	35.75	Canada	8.39
Western Australia	58.98	Natal	17.97
All Australia	32.87	India	.50
Cape Colony	22.52	France	2.52
New Zealand	38.81	Russia	.41
United States	1.46	Argentina	7.26
Germany	2.40	Mexico	.72

It has been computed that the *per capita* consumption of British goods in all the British colonies is $15.81, while for all non-British countries it is only $3.64. On account of the difficulty of determining the exact population of many regions, these last figures can, however, be only approximately correct. The *per capita* figures given above show that, notwithstanding the extreme poverty

which prevails among the inhabitants of India, they still are better customers, as far as Great Britain is concerned, than are the subjects of the Czar. Similarly, the Canadians individually buy over five times as much of England as do the people of the United States. The strength of the argument that can be made from these statistics is somewhat impaired by the high *per capita* figures in the case of the South American states. Though they are not colonies of Great Britain, the English have there been able to build up a very remunerative trade.

If we were asked to summarize the conclusions presented by these three kinds of statistics, we might say that political control must certainly give the mother country some advantage in colonial trade, else the *per capita* figures could not be relatively so high in the case of colonies and dependencies. From the point of view of the latter, moreover, trade relations with the mother country are of great importance, as they embrace on the average over half the entire trade of the colonies. But when we look at the sum total of the commercial interests of any great European power, the colonial trade cannot be given such importance that it could for a moment seem wise to neglect the commercial relations with other highly civilized nations in its behalf.

When we ask for the special causes which lie at the root of the phenomenon of the high colonial *per capita* rate, we must, of course, discard the idea

that the mere exertion of bare political sovereignty can permanently influence currents of trade. It is rather the accessories of political power, the things which it implies and which usually go with it, that render the colonies great markets for the mother country. In the first place, there is the community of customs and fashions which makes the colonists demand goods manufactured in the home country; there is also the community of language and of laws which renders the establishment of financial institutions and of business relationships comparatively easy. In exploitation colonies the tastes and habits of the ruling class will have a great influence upon the indigenous population, and will induce them to ask for things the need of which they have not felt before.

These influences and tendencies will, however, gradually grow weaker, as a colony grows older and more self-sufficing, and it will then allow more purely economic causes to determine in large part its trade relations. This fact is brought out very clearly in the statements addressed to Secretary Chamberlain by the British colonial governors in reply to his circular letter of 1895, in which he made inquiry, to what extent and on account of what causes foreign goods were displacing British manufactures in the colonies. The replies contain much interesting and valuable information on the condition of colonial trade, and throw much light on the commercial methods of the various nations. The general impression gained from these reports

is that, while Great Britain is losing trade relatively, she is still very far in the lead, and that the figures which are constantly published concerning the reputed increase of foreign trade with the colonies lose much of their terror for England when we remember with what a small trade the other nations began a few decades ago. Thus, an increase of the foreign trade with Cape Colony of 463 per cent is somewhat less alarming when stated in the terms that foreign trade in 1887 was 5 per cent, in 1897 23 per cent of the total. Still, the significance of these percentages of increase and decrease is undoubtedly great; but they indicate, not so much that Great Britain is being hopelessly outdistanced by her rivals, as that the latter are beginning to claim their proper share in the world's trade. And they are also claiming their share in the trade of the British colonies, in defiance of the principle that trade must follow the flag.

The governors report quite generally a relative increase in the importation of foreign, and especially German goods. This, however, they account for partly by the provisions of the British "Merchandise Marks Act," which requires all articles to be marked with the name of the country of origin. Formerly imported from England and counted as British goods, many articles are now, when their true origin has become known, imported directly from the country of manufacture. Furthermore, according to the testimony of many governors, the

British are too conservative in their methods, refuse to modify the style of their goods, continue to send out circulars which remain unread, and adhere to very stringent and uniform rules in allowing credit. Other nations, especially the Germans, establish personal relations with their customers through the liberal employment of travelling men; they are, accordingly, enabled to make far more flexible credit arrangements, as they know the character of their debtors; they also make note of any peculiarities of the native tastes, and modify their manufactures accordingly. They are ready to fill the demand for cheap and showy goods, while the British continue to rely on quality. Of the utmost importance also are adequate banking facilities, and means of frequent and regular communication, all of which the Germans have exerted themselves to establish. The facts brought out in these reports show that while there is undoubtedly some truth in the adage of trade following the flag, it will not do to use it as a "pillow to go to sleep on in a benign feeling of security"; nor, it may be added, is this principle of such unfailing virtue that it would justify the expenditure of large sums in acquiring colonial possessions in the expectation of assured future returns.

The only manner in which political control can be made synonymous with commercial monopoly is through the use of an exclusive system of high tariffs. And the fear that such a policy is now in the ascendant is chiefly responsible for the great

scramble for territorial possessions which we have recently witnessed. The only safety from being shut out seems to lie in being on the ground first, and yourself building any walls that are to be erected. Let us, however, examine the prospects of this policy of commercial exclusiveness. Thus far, two powers only in recent times have used it in their dependencies — Russia and France. As the possessions of Russia are assimilated to the national territory in all respects, and as the policy of Russia is not one of fostering or seeking for international trade, but of securing complete commercial and industrial self-sufficiency within the nation itself, this policy must be judged from the basis of national, rather than from that of colonial politics.

France, however, deliberately takes up colonies, entirely separate and distinct from her national territory, and since 1892, enforces within them the full rates of the French protective tariff. In the protectorate of Tunis, French goods also receive highly preferential treatment. Now, though French imports into the colonies have increased, it would be very difficult to prove that France, as a nation, has benefited from this policy. In other parts of the world her trade has been stationary or even retrograding. The question suggests itself whether she has not been sacrificing too much of her energy in the race for colonial possessions, and whether she had not done better to rely on her economic intercourse with other great nations, than

to cherish the hope of large gains from the colonies under an exclusive system. That the colonies themselves have been injured under this illiberal régime few will deny. Not only foreign goods, but foreign capital and enterprise, have been excluded from them, with the result that Indo-China is sadly backward as compared with the Straits Settlements, where all nations are given an equal opportunity.

In less advanced colonies of large population and extent, such as the colonies in West Africa, the high tariff policy defeats itself, as goods are there so easily smuggled that the imposition of even a slight tax will change the current of trade with the interior from the ports with high custom duties to those in which free trade prevails. It would seem that a policy of this nature must be inherently so weak that it cannot permanently maintain itself against the true interests of both colony and mother country. It could become a universal policy only in case nations were to forget that, after all, their greatest interest lies in developing sane and stable economic relations with each other. Of course, it is possible that they may forget, but at present the open door policy may still confidently be said to be in the ascendant, both actually and potentially. The best interests of the commercial world would be subserved were law and order established throughout the world, but were it considered indifferent which particular power holds the sovereignty over any given region. It

is a pity that the large-minded policy of 1885, by which Central Africa was made a free trade territory, could not have become universal in colonial affairs.

Though a nation should, therefore, not be too confident as to its ability permanently to secure colonial trade for itself by mere political action, there is one aspect of the formative stage in colonial life in which the political power can do much to foster national trade relations with the colonies. This is the exercise of the financial powers of government together with the execution of great public works in the colony, such as roads, railways, canals, harbors, and public buildings. While these activities are primarily industrial, — and as such will be discussed more fully in the next chapter, — they also involve the purchase of vast amounts of material; if this is bought in the mother country, as is usually the case, a considerable impulse may be for a time given to certain lines of commercial and industrial activity. It is interesting to note that even the British self-governing colonies have in this manner made very large purchases in the mother country.

II

More important even than the possession of wide reaches of territory is the control of depots of trade, of *points d'appui* for the navy, and of routes of communication. The great object of competition among modern nations being trade,

only that country can successfully compete in this struggle which is provided with the means of access to the most important markets. It is, therefore, conceivable that a nation, by merely acquiring territory and neglecting routes of communication, might fail to provide itself with the best equipment for the coming struggle. It is, indeed, remarkable to what extent political action has been directed and historical development moulded by the needs of communication.

Looking at the history of English imperial expansion, we have, to begin with, the founding of a few trading settlements in India. They grow in power and importance, and soon the question of safe and unimpeded communication between Great Britain and her valuable possessions arises. This one consideration of assuring safe routes to India has been the most potent factor in British foreign politics during the last century. In the first place, the Cape of Good Hope was taken from the Dutch in order to make sure of this important station on the sea road to India. Then, in the sixties, came the building of the Suez Canal. Step by step, the British acquired control of this waterway, and, as accessory to it, of the country of Egypt. If we glance at the map, we see that Great Britain has a whole series of possessions that derive their value, entirely or chiefly, from the fact that they are situated on the Suez Canal route. These possessions are the Kuria Muria Islands, Sokotra, Aden, Perim, the Somali Coast, and, in the Medi

terranean, Cyprus, Malta, and Gibraltar. So successful have the British been in securing for themselves the points of access to the canal that the latter has practically become a British waterway; with great political genius they have forged a strong chain which binds India to England.

The complex relations of Great Britain to Turkey and to Russia have also been determined in a very large measure by this same question of communications. Turkey has been treated with great circumspection and friendly solicitude in order that trouble from that source might not be incurred with respect to Egypt and Cyprus. On the other hand, any indication of a Russian movement toward Constantinople has immediately called forth the protests of the British government, as the presence of such a power in close proximity to the canal route is held to endanger the imperial position of England.

But the ramifications of this question reach still farther. Thus, the one reason for entering upon the Boer War to which its defenders generally look for its ultimate justification, is the fact that Great Britain could not afford to leave her South African possessions in jeopardy of Africander ambitions, because of the importance of the Cape as a station on the alternative route to India. Furthermore, the great railway which is to connect Cairo and the Cape passes closely by the territory of the Boer republics, and, in any case of strained relations with them, this important communication

would also have been endangered. The same consideration made the acquisition of the Sudan in 1898 an event of the utmost importance. Had Lord Kitchener failed, the French from Central Africa and the Russians from Abyssinia would have joined hands and broken the communication between Egypt and the British East and Central African protectorates. It was not so much the value of the Sudan *per se* as territory, but its position with respect to routes of communication, and with respect to the water supply of Egypt, that lent the most absorbing interest to Lord Kitchener's achievement. In the far Orient, Singapore and Hongkong, towns of small territorial importance and yet rich and influential commercial centres, attest the value of favorably situated depots of trade.

But other countries give fully as striking exemplifications of what has been said concerning the importance of communication. The political history of modern Russia can be understood only from this point of view. Originally confined to the interior, the Russian nation for years yearned for access to the open sea. Peter the Great, who with prophetic insight learned the art of shipbuilding in his youth, when the country of his fathers had as yet no outlet to the sea, did not rest until he had achieved his greatest ambition, and had established himself firmly on the shores of the Baltic. The great Catherine accomplished the occupation of a part of the Black Sea littoral, and

Muravieff, in 1848, founded Vladivostock, "the ruler of the East," on the coast of the Pacific, on an equal latitude with the state of Oregon. But even then the fulfilment of the hoped-for destiny of Russia was not complete; for, though the sea had been reached, the location and accessibility of the Russian ports was by no means satisfactory. It is only with the acquisition of Port Arthur that the desire of centuries has been attained by the Russians. They are, however, still pressing toward Constantinople and toward the Persian Gulf, which they consider the proper outlets for the central portion of their empire. The struggle between Great Britain and Russia for the southern portion of Persia is a question in which the element of communication is all-important.

The German Empire has also a full and clear understanding of this requisite of modern politics, as is shown by her eagerness to acquire such apparently out of the way islands as the Marshall and Caroline groups and Samoa. To the occupation of Kiao-chau the Germans were also moved primarily by their need of a depot of commerce and of a naval station.

In our own country, too, the entire course of national expansion has been influenced by this same logic of communication. Louisiana was acquired because it gave us control of the mouth of the Mississippi, the main outlet, at that time, for the trade of the old West and Northwest. Then the Pacific beckoned, and the chief outcome

of the war of 1847 was the possession of its coast. The more complete control of the Isthmian Canal route has been the prime motive for the acquisition of Porto Rico, the Danish West Indies, and Hawaii. The Philippine Islands, should we permanently retain them, may turn out more valuable as a large station of Oriental commerce than as a possession in themselves.

While the occupation of new territory is generally looked upon as very desirable, it nevertheless involves great burdens, such as the cost of defence and administration, as well as international responsibilities. It is, therefore, well to be cautious in undertaking the control of large territorial possessions. But the points from which communication can be kept open and perfected, and from which the markets of the world can readily be reached, are justly looked upon as absolutely desirable property for a modern nation. As the policy of firmly closing the great markets of the world could never be completely carried through, the routes of approach to them will always continue to be of the utmost importance. Such points as Hongkong and Singapore, which fifty years ago were barren islands, scarcely inhabited and devoid of value, have now become true mainstays of the commercial organization of Great Britain in the East. Their importance is best expressed by the fact that the foreign trade of one of them is nearly equal to, while that of the other exceeds, the whole volume of Mexican foreign commerce.

It is essential for the protection of a nation's trade that its men-of-war should be able to reach all the parts of the world where commerce is important without being obliged to secure coal or provisions at foreign ports. Even with the advance that has been made in ship-building since the employment of steel as construction material, the possession of coaling stations at a moderate distance from each other is still of prime importance. Moreover, as depots of trade for the exchange of the products of the various countries and for the location of branches of the great houses of commerce, such points are of even greater and more constant value. In view of these conditions, the nations which have entered late upon the field of colonial politics are at a great disadvantage. Russia is feeling this, and is laying her plans, with her usual ability, for a foothold in Morocco and on the coast of Eritrea. Germany is also strongly endeavoring to make good her deficiencies in this respect.

The United States, as has been said of England, has "blundered into some of the best places on the globe." Our communication with Asia, which to us may soon be more important than any other, has been rendered perfectly secure through the acquisition of Hawaii, Midway Island, Guam, and Manila. While too much was expected of Manila when it was said that it would soon equal Singapore and Hongkong as an Asiatic trade centre, its location is, nevertheless,

favorable enough to make it a valuable entrepôt. The importance of Porto Rico, too, will certainly increase after the construction of the Isthmian Canal, because it will then become a central point for the distribution of merchandise and produce between North America, South America, Europe, and Asia.

The increased speed of communication has made most powerfully for the permanence of colonial relations. Before 1850 colonies were so distant, both in space and in time, that any lasting connection between them and the mother country seemed problematical. One of the main reasons for the present growth of interest in colonial enterprise is the fact that the new regions of the world are so readily accessible and can be so effectively and closely connected with the mother country. A compact and homogeneous national life now seems possible, even among widely scattered possessions.

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CHAPTER VI

CAPITALISTIC EXPANSION

The industrial revolution which transformed the economic life of Europe at the beginning of the nineteenth century has been followed by an equally far-reaching movement which we may call the capitalistic revolution. The nineteenth century was the great era of national home industry. During a long period, which has but recently closed, apparently the sole concern of English statesmen was to foster the position of England as an industrial and manufacturing centre. The policy of free trade was adopted as an article of faith, as it enabled England to obtain an ample supply of cheap raw material and food, and tended to keep open the markets of the world for her products. The most complete development of the mechanism of trade and manufacture in England itself was the chief aim of industrial leaders, and from this point of view they regarded the entire expanse of economic life.

But gradually a new movement began to assert itself. England had accumulated an abundance of capital, and it was found that opportunities for ex-

ceedingly profitable investment existed in other parts of the world. Moreover, British manufactured products were excluded from certain foreign countries by hostile tariffs. Therefore British capital entered these countries, established manufactories there, and obtained liberal returns on account of the very restrictions that had been directed against the commerce of England. In this way not only did numerous railways and other works of internal improvement in various parts of the world come to be financed by British capital, but the manufacturing industries of such countries as Russia, the United States, and even Germany and France, became a profitable field for British investment. As a result, England is now primarily a creditor and landlord nation, and a great part of the industrial mechanism of the world is controlled from London. British commerce has fallen off relatively and will continue to do so, as the other nations are advancing in industrial power, and are claiming their share in the world's trade. Nevertheless, the industrial supremacy of the world has not yet passed from Great Britain, nor has her financial supremacy been shaken. This rests on a far broader basis than the territory of England itself; it draws its strength from the entire world. That the balance of trade is becoming more and more "unfavorable" to England is not due to the fact that English manufacturing industries are being outstripped by those of other nations; the excess of imports over exports is composed largely of the

returns which Great Britain is getting from her investments in foreign and colonial regions. Other nations, too, which have reached an advanced degree of economic development have of late begun to invest large amounts of surplus capital in the development of regions beyond their national boundaries.

From this account it might appear as if capital were indifferent to nationality; as if it were ready to take advantage with equal alertness of all opportunities for remunerative investment, whether found in Mexico, China, Spain, Russia, or the United States. It is certainly true that the main desideratum of capital is security and fair returns, and that it cares but little for sentiment. Capitalists but rarely have the spirit of adventure, and it is very difficult to enlist capital for the purpose of investment in unsafe regions, although the possible gain therefrom may be great. This very requirement of security has led to political consequences, as the experience of European capitalists with investments outside of territory controlled by the great powers has not been reassuring. Thus English investors have found South American, Turkish, and Spanish securities a source of frequent serious loss. It has been computed that, in Germany, out of 10 billion marks of foreign security investments in 1885, 1330 millions were in danger of serious depreciation, while 1750 millions were practically worthless.[1] The hazards to

[1] *Zeitschrift für die gesammte Staatswissenschaft*, 1900, Heft 4.

which foreign bondholders are subject have been amply demonstrated by the condition of the Egyptian finances before the Anglo-French condominium, by the Tunisian bankruptcy before 1883, and by the insecurity of Chinese and Transvaal investments during the recent crises. Even in such countries as Russia and Spain, arbitrary government regulations and the favor or disfavor of the courts have a great influence upon the security of foreign investments.

It is not surprising, therefore, that investors in foreign securities should favor the extension of responsible and equitable government to undeveloped regions. It has become a necessity in the present stage of economic life that all parts of the world where potential wealth exists should be policed and put under an orderly administration, so as to make the improvement of their resources a safe and profitable undertaking. As contradistinguished from securities in South America or the Balkans, British colonial paper is considered in the London market as a gilt-edged investment, ranking, as far as safeness is concerned, on perfect equality with British municipal bonds.

The development which we have just outlined has brought about a great change in the manner and methods of colonization. Under the former régime of purely commercial enterprise the penetration of the interior of a new region was not required. Trading was carried on from the decks of merchantmen, from hulks anchored at the

mouths of streams, or from factories[1] situated on the seacoast or on the shores of the larger navigable rivers. In addition to the actual value of the goods, not much capital was invested, and the investment could be easily protected. This was the character of the commercial colonization in India and along the African coast. Political control over large inland regions was not a necessary concomitant of this kind of colonization. Thus the conquest of the internal regions of India, though the occasion for it was furnished by commercial settlement, was really due to other causes, such as the political ambitions of the French, which involved their rivals in similar plots and activities. Political control over the interior regions of Africa was never attempted and scarcely even thought of before the era of industrial colonization had arrived.

At present colonial activities have assumed a different aspect, since capital in no longer satisfied with coast trade. It finds more remunerative employment in the exploitation of mines and forests, the construction of railways, and the establishment of large plantations. The latter are becoming more and more industrialized; expensive and complicated machinery for the preparation of coffee for the market, and large central sugar factories, take the place of the former simple and primitive methods of agricultural production. Moreover, manu-

[1] This word is here used in its original sense, as an establishment of merchants in foreign parts.

factures of various kinds are being established to provide for the growing wants of the local population. Enterprises such as these involve a far more intimate connection with the territory and the population than do purely commercial dealings. The titles to property in land must be secure; there must be no fear of violence or of revolutions of government. Orderly methods of administration, a sound system of banking and currency, — all these are prerequisites to a safe and paying investment in foreign or colonial regions.

Hence, the pressure for extended political control is much stronger at present than it ever was in the days of purely commercial colonization. This is the real secret of the strength and scope of the present movement for the assertion of political dominion over new regions. Moreover, it constitutes the strongest bond between the mother country and her colonies, the self-governing as well as the others. Canada may have a practically independent parliament, she may even be allowed to manage her foreign policy according to her own interests, she may trade chiefly with the United States; but as long as her whole financial system depends on British capital, she remains in the true sense of the word a colony of Great Britain.

As stated above, it might seem that the capital of any nation should be satisfied if orderly government within a certain territory were established by any one of the great powers, and that it would not have any reason specially to desire its own state to

assume this control. It would, indeed, be an excellent thing, were capital free to go unhindered to any part of the world and to engage with safety in the development of new resources there, being sure of ample protection by a civilized government without burdensome restrictions or fear of official disfavor. But there are several considerations why capital preferably seeks the protection of its own national government in colonial enterprise. The mere matter of an official language and of a system of laws with which the capitalist interested in colonial industries is familiar, is a great convenience to him. Moreover, favorable administrative action is much more readily obtained in cases where the officials belong to the same nation as the colonists. Of still greater importance is the fact that a capitalist may obtain from his own government public contracts, grants of land, and the concessions of privileges which a foreigner has little reason to expect. Such advantages constitute a definite basis of financial credit, and are more satisfactory than the most inviting expectancies of profit founded merely on the general opportunities afforded by a new country. For these various reasons there is a tendency for capital to become national in its methods and affiliations. Formerly, most foreign investments were made in state securities, leaving the foreign government to which the funds were lent to construct the improvements itself or to make contracts therefor with foreign industrials. But at present the direct investment of capital in works of ex-

ploitation and improvement is much more common. Thus, for instance, while German savings were formerly put into Russian, Austrian, and Balkan state bonds, they are now preferably invested in the railways of Turkey and Asia Minor, which are financed by German banks and constructed by German engineers, or in other quasi-national undertakings in new regions. In a similar manner British capital prefers investment in the British colonies, or in undertakings controlled by British interests.

When we look at colonization as the systematic influence exerted upon a lower grade of civilization by a higher, through the application of personal energy, it becomes clear that the influence exerted by the most advanced nations in this capitalistic stage will produce important results much more quickly than in any former period, or by any other means. The adventurers, the merchants, or the missionaries may succeed under certain conditions in influencing a lower civilization; but it is exceedingly difficult to modify manners and beliefs directly by missionary work, and many populations are irresponsive when approached in this manner. The economic life of such regions is much more easily made to conform to advanced standards. The usefulness of the western industrial machinery and the improvement thereby produced in the comforts of life is recognized by the most backward peoples, so that, while in philosophical and religious matters they may hold aloof, and while com-

merce would touch them only on the boundaries, industrial enterprise goes to the very heart of their countries and brings the visible achievements of western civilization before their astonished eyes. They are thus forced to acknowledge the superiority of the western nations, at least in matters of industry and in practical affairs; and when their ideas have once been given an impulse in this direction, it will be far less difficult to exert a moulding influence upon them with respect to the other phases of civilized life.

There is, unfortunately, an aspect of this development which is less attractive. The interests of concentrated capital are often pursued with absolute unscrupulousness, and with a total disregard of the rights of the native populations. The capitalist, who does not feel the same deep sense of responsibility as the statesman, is not unfrequently ready to play the game of politics, even to the extent of embroiling nations in murderous warfare, if only the success of great financial or industrial operations is thereby promoted. While the war in South Africa is so recent that the time is not ripe for pronouncing a categorical judgment upon its causes, which were certainly most complex, still it appears that prominent among them was the industrial and financial policy of great corporations which, for the time being, preferred the British régime to that of the Boer republics.

In the internal affairs of a colony, the shrewd, selfish activity of organized capital is often so per-

nicious that it becomes one of the chief concerns of the colonial government to prevent the utter exploitation of the natives. The manner in which concessions have been abused in Indo-China and in other French possessions is an example of how far this may be carried. When the natives in certain parts of Indo-China had fled for safety during war, their lands were freely granted to French *concessionnaires*. Far from introducing improved methods of agriculture, or enriching the soil, they simply took possession, and superimposed themselves as a landlord class upon the natives when the latter returned to till their ancestral lands. In the English crown colonies the government has been obliged constantly to keep a strict watch upon the encroaching tendencies of organized capital, in order that the patrimony of the natives might not gradually be taken from them.

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PART II

FORMS OF COLONIAL GOVERNMENT

CHAPTER VII

SPHERES OF INFLUENCE

We have thus far considered methods of colonization in which individual enterprise takes the initiative. With respect to these the state does not act directly, but it gradually follows with its protection the individual trader or colonist to his new field of activity. The motives which we have discussed appeal primarily to individuals, and lead to undertakings in respect to which the acts of the state are at first only subsidiary.

In recent years, however, a far-reaching and radical change has come over the entire field of colonial enterprise. The economic energies of the western nations have been stimulated to such an extent that the more restricted markets of the old commercial world, as well as the opportunities it offers for capitalistic investment, are no longer adequate. Moreover, both commerce and capital have become nationalized, have been taught to look to the state for assistance, and to adjust their own activities and policies to the upbuilding of national power. Far more than was ever before conceivable, the national state has become the exponent of the sum of energies within its bounds.

This fact gives to the action of economic forces a sweep and impact which they have not known before, and moreover, it causes the state, in its capacity as guardian of the national economic interests, to spare no effort in extending the territorial sphere of national activities.

When this movement first disengaged itself from the earlier principles and theories of Nationalism and Liberalism in the seventies and eighties of the century just past, the European nations began, in an almost nervous haste, to stake out claims within the regions still available, and in less than a decade the vast inland territories of Africa, which had hitherto been an absolute blank on the map, were apportioned among the European powers. The activity of preëmption extended also to Oceanica, where no coral reef was too small to be overlooked in this race for territorial possessions. Of late, even the densely populated regions of Asia, with their ancient and complex civilizations, have attracted the desires of the European nations. They were almost ready to proceed to an unceremonious carving up of the venerable body of China, when they were stopped, at least for a time, by the Chinese uprising; but throughout the oldest continent, from the Bosporus to Korea, they are playing a shrewd game of intricate moves for the acquisition of political influence.

In this era of direct political expansion, the older methods of colonial growth have come to be considered too slow and uncertain. The gradual

development of trade and industrial enterprise, the civilizing influence of missionaries, are not sure enough means of gaining a firm foothold in new regions, but these individual forces must be seconded, and even anticipated, by the state. As each nation is loath, for fear of the others, to trust solely to the natural process of colonial evolution, they have all joined in an artificial division of the unoccupied world, and in the creation of political authority over territories within which no economic activities have as yet been developed.

The ways in which this partitioning of the world has been accomplished are, by conquest, by occupation of legally unoccupied territory, by treaties creating spheres of influence or protectorates, and by the acquisition of financial control over countries that have allowed themselves to be brought into economic dependence.

The methods of conquest have changed but little since the days of Cæsar: now, as then, the subjection of savage and semicivilized races has been undertaken and accomplished most generally under the plea of pacifying them and of protecting the boundaries of national possessions. In this manner the authority of Russia was gradually extended over Central Asia. Turbulent tribes on the boundary would give ready and frequent occasion for punitive expeditions, which usually ended in the annexation of a new strip of territory. Similar boundary difficulties gave France an excuse for making the first inroads upon Tunis, as well as for

extending her empire all along the line in northeastern Africa. The question of boundaries is for this reason a crucial matter in colonial politics. One of the most vexing problems of the British Indian administration has been the choice of methods in the treatment of the boundary tribes, especially of those which are situated in the direction of the Russian frontier.

Wherever legally unoccupied territory exists, it may be reduced to possession by a sovereign state, upon analogy to the private law of occupation. In strict international law, only such territory as is occupied by savage races who have no political union beyond the village is considered as technically unoccupied, and in a condition where it may be reduced to possession by any claimant. Territory held by a state which is a member of the international law community, and even by such barbarian states which, though they do not maintain diplomatic intercourse, still have a higher political organization than the village and clan, is considered as occupied, and can be acquired only through conquest or treaty of cession. In practice, however, tracts held by such barbarian states have often been included in a general occupation of territory by a civilized power.

It is but recently that the law of occupation has been settled and defined. Formerly almost any symbolic act of taking possession was considered a sufficient basis for a valid claim. Thus, the English crown based its right to the possession of the

North American territory upon the discovery of Sebastian Cabot, who had simply cast eyes upon the coast from his sailing vessel. The acquisition of South America by the Spaniards was largely a matter of symbolic occupation, such as the hoisting of the Spanish flag or solemn proclamation. The most famous illustration of this method is the bull of Pope Alexander VI., of May the 4th, 1494, which granted to Ferdinand and Isabella the whole Western Hemisphere, with the sole exception of such tracts as might already have been reduced to dominion by others.

When the race for colonial possessions began, European nations made exceedingly broad and far-reaching claims of symbolic occupation. Having established a station on the seacoast, they forthwith asserted a right to the entire hinterland, the interior region lying back of the station, to the very centre of the continent. The continued insistence upon such claims would, of course, have brought about the most serious conflicts among the colonizing nations. Hence, they came to an agreement to enforce stricter rules, and, in the Kongo Act adopted by the Conference of Berlin in 1885, the law of occupation was settled. This treaty requires that notice of the occupation of new territory and of the creation of a protectorate must be given to all the colonial powers. It also establishes the rule that symbolical occupation, such as the raising of a flag, or the proclamation of sovereignty, is not sufficient to constitute a valid claim. Cor-

poreal possession, together with the successful establishment of control and the continued maintenance of law and order throughout the whole territory claimed, is necessary to give any nation a recognized right to unoccupied territory. These latter requirements, however, do not apply to protectorates, which involve only a personal relation, and not direct physical dominion.

The Kongo Conference, which has just been alluded to, was the most important result of a tendency among the great powers to hold the colonial ambitions of individual nations within bounds by international action. It was felt at that time that unless the violent desire for territorial expansion could in some judicious manner be moderated, and a certain balance maintained among the nations, a serious danger to the peace of the world would result. Moreover, tendencies toward economic exclusiveness were making themselves felt; hence, the counteracting influence of international action was invoked to keep open at least some of the prospective fields of commerce and investment for the benefit of the world in general. The Kongo Conference of Berlin took a very important step in defining the policy of the "open door," which it applied to the so-called conventional Kongo basin. Within this tract complete freedom of commerce is guaranteed, no duties can be levied for purposes other than the payment of mere administrative expenses, nor can the freedom of transportation on rivers, railways, or roads be in any way abridged

or subjected to discriminating tariffs. The free trade area of the Kongo embraces the whole of Central Africa from shore to shore, including the Kongo Free State, the greater part of French Kongo and of British East Africa, the whole of German East Africa, as well as the northern portion of Rhodesia and Portuguese West Africa, together with some minor tracts of territory. By the Kongo Act the powers also guaranteed that their possessions in the Kongo basin were not to be used as slave markets or for the transit of slave caravans.

The Brussels Conference of 1890, which forms another notable instance of coöperation among the great powers, further defined their policy in matters of common interest. It fixed the maximum of import duties to be levied within the Kongo region at ten per cent, and it made detailed regulations for the suppression of the slave trade in Africa. By a treaty among the great powers concluded in 1900, the whole of Central and Southern Africa, as far south as the Orange River, has been constituted a huge game preserve, within which all but dangerous animals are protected by international action, one of the provisions being that elephant tusks weighing less than twenty pounds are to be confiscated wherever found.

International action has been very powerful also in peaceably adjusting territorial relations between the various powers. Through treaties between individual states, the whole continent of Africa

and the island world of Oceanica have been divided among the nations without a single appeal to arms.[1] In this manner Egypt, too, has been brought under European control; and although Great Britain has there succeeded in making herself the paramount power, still, some important parts of the Egyptian administration — the *Caisse de la dette* and the Mixed Tribunals — have remained international in character. The existence of the Kongo Free State, which has now virtually become a Belgian colony, is due also to treaty arrangements. Most recently, the feeling of international solidarity has been strong enough to steer the western powers with comparative safety through all the dangers consequent upon the Chinese uprising. It may, therefore, be said that while the great powers are animated by an intense desire to extend their national influence, and to leave their mark on the destiny of the world, they have still been ready to subordinate their individual aims in many cases to the exigencies of the more general interests of humanity. They have not been without the spirit of accommodation, and have striven to maintain a certain balance which would enable all to have their share in the dominion of the world.

Among all the political institutions of modern colonial expansion none have been more important than spheres of influence and protectorates. Both of these relations have their origin, formally at

[1] The acquisition of the Philippines by the United States was an uncontemplated result of a war begun for a different purpose.

least, in international law, as both are the creation of treaties; the unilateral act of any state can become the basis of a valid claim to new territory only through occupation or conquest. The term "sphere of influence" has been used with the greatest latitude of meaning and has been applied to a great variety of relations; but through all these uses there run a number of characteristics which may be determined with a fair degree of accuracy. The sphere of influence is distinguished from occupation in that it does not involve material possession, nor the immediate creation of the machinery of government. In fact, its essential element is a negative one; namely, the principle that no other power or nation except the one in whose favor the sphere of influence exists shall be permitted to exert any political authority within a certain territory, leaving the privileged power free to act as its interests and inclinations may prompt. A sphere of influence may hence be defined as a tract of territory within which a state, on the basis of treaties with neighboring colonial powers, enjoys the exclusive privilege of exercising political influence, of concluding treaties of protectorate, of obtaining industrial concessions, and of eventually bringing the region under its direct political control. The dominant idea, however, is the exclusion of the political activities of other powers and the consequent reservation by the privileged state of a free hand. It does not refer to any positive exercise of authority by the latter.

The doctrine of spheres of influence has found its most important application in the partition of Africa. On the basis of the doctrine of the hinterland, any power which had a strip of coast land claimed also the exclusive right of exploiting and reducing to possession the interior region lying back of the coast colony. When the Kongo Act had rendered the maintenance of such stupendous claims impossible, the powers sought through international treaties to secure their proper share in the expectancies of Africa, without the cost which actual occupation would entail, and without the danger of eventual boundary disputes. In this manner Africa was peacefully portioned out among the great nations, who received tracts of territory far beyond their actual present power of control and assimilation. These treaties, which were usually concluded between two powers whose claims were likely to conflict, simply established and delimited spheres of influence as between the parties to the agreement, and did not in any way preclude the rights of the powers who had not assented. In other words, such agreements do not bestow upon a state the rights which it would have acquired against all the world by actual occupation. They are simply arrangements by which one power promises another to forego political activity and economic privileges in a certain region.

The most important among these many treaties were the following: (*a*) the Anglo-German agreement of 1885, concerning Southwest Africa; that

of April, 1886, which delimited the respective spheres of interest in the Pacific; that of August, 1886, which settled the boundaries of Kamerun; the important treaty of July 1, 1890, which fixed the boundaries of the East African spheres and recognized the British protectorate over Zanzibar and the sultanate of Vitu; and the Delagoa Bay agreement of 1898; (*b*) the Franco-German treaties of December 4, 1885, delimiting Togo and Kamerun; and of March, 1894, fixing the respective spheres in the region of Lake Chad; and (*c*) the Anglo-French agreements of 1890, respecting Algeria, the Niger, Sokoto, and Madagascar; of June, 1898, relating to the Niger region; and of 1899, fixing the boundaries in the Eastern Sudan.

In Asia the most important spheres of influence are those of the French and the British in Siam, which were created by the agreement of 1896. Outside of this instance the term, with respect to Asiatic affairs, is used in a more lax and indefinite manner, and it does not always have for its basis a treaty relation. As used in a less technical sense, the term does not indicate more than an inchoate sphere of influence, claimed by a certain power, but as yet not sanctioned by international agreement. In this manner Great Britain claims southern Persia and the entire littoral of the Persian Gulf from Koweit to Bander-Abbas and to Muscat, while Russia regards as her undisputed sphere the region north of Teheran; but no delimitation agreement has ever been concluded between the

two powers, nor are claims by other nations positively excluded. We shall, however, see that the Russian claim has quietly and gradually ripened into an informal protectorate. Similar inchoate spheres of influence are in the process of development in Asia Minor and Syria. Here, however, they have not yet emerged from the purely tentative stage; the nations are only feeling their way, and are still so uncertain of their position as to refrain from claiming any definite area for their exclusive influence.

There has of late been much speculation with regard to informal spheres of influence through which the European powers are endeavoring to exclude each other from certain portions of the Celestial Empire. China has made non-alienation agreements with Great Britain, Germany, Russia, and Japan, in which these nations obtained of the Chinese government the promise that it would not alienate a given province to any but the contracting power. Of this kind is the agreement with Great Britain, in which China promised never to alienate any portion of the Yangtze basin to any other foreign nation, and that in case an alienation should be decided upon, it would be made to Great Britain. These agreements have been called "the last will of the sick man." They would, however, furnish a very unsafe basis for a delimitation, should a partition be attempted. Thus, for instance, China has promised both to France and to Great Britain not to alienate the

province of Yun-nan to any other power; therefore, the two treaties taken together amount to the very simple agreement on the part of China not to alienate the province of Yun-nan at all. Moreover, these so-called spheres of influence have never had their boundaries defined, even by the nations who claim them. But the most important reason why the spheres of influence in China fall short of the normal, is the fact that they do not rest upon treaties among the claimant powers, but simply upon agreements between individual states and the Chinese government. There are a few exceptions to this statement; for instance, the Anglo-German agreement respecting the development of Shan-tung, and the Anglo-Russian understanding concerning railways in northern China. But in these cases the relations contemplated in the agreements are not sufficiently comprehensive to amount to the actual establishment of true spheres of influence.

South America has often been called a sphere of influence of the United States. The complex of relations which exist in this case, however, falls short of the true character of this institution. While the United States has attempted, and so far successfully maintained, the exclusion of European political influence from the Latin-American republics, she has done so, not through treaty arrangements, but by adhering to a policy announced simply by herself. Moreover, the purpose of this exclusion has been rather to permit the sponta-

neous development of the Latin-American republics, than to afford the United States an opportunity gradually to assert her political authority over them. So that, both in origin and in purpose, the relation of the United States to her southern neighbors differs materially from that involved in a sphere of influence.

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CHAPTER VIII

COLONIAL PROTECTORATES

When a state has succeeded in excluding other nations from the opportunity of exerting political influence within a certain region, it may then set to work and develop its own authority therein, either by occupation, by annexation, or by the establishment of protectorates. The latter is the favorite mode of transition from the negative sphere of influence to a positive direct control.

Starting from the conception of a protectorate as it exists in international law, colonial politics has, by adapting the general elements of this relation to its own uses, developed a new and very flexible institution. The international conception presupposes two separate states, the weaker of which places itself, by treaty, under the protection of the stronger, retaining its internal autonomy, but permitting the protecting state to exert a guiding influence in its foreign affairs. The relations which are established between the two states are purely personal in nature, and the protecting power does not exercise any degree of direct territorial sovereignty. The principles of constitutional law are not applicable to the relation of protectorate,

which rests entirely on a treaty basis, and which does not involve the legal subordination in matters of internal government of one state to the other. As this conception has been applied to colonial politics it has been modified in many respects, so that the colonial protectorate differs quite materially from the international institution which constitutes the point of departure for its development.

The very idea of a sphere of influence potentially involves the protectorate. As diplomatic and political relations with other powers are excluded, the state by which the sphere of influence is claimed must hold itself ready to protect the territory and its populations against attacks from without; and, moreover, it will also be held responsible to a certain extent for the conditions existing within such sphere. Hence, a certain amount of interference in the internal affairs of the region is usually unavoidable. The purpose of the suzerain government may be to bring about a direct control over the territory of its sphere of influence as soon as possible: in this case the protectorate will be used, but only as an intervening transitional stage; before long it will become a protectorate in form only, or will give way entirely to direct administration. On the other hand, it may be the policy of the paramount power to preserve the local institutions, and to use the protectorate as a permanent method of control. For this reason there are as many varieties of protectorates as there are forms which the relations between a strong colonial power

and a weaker native state can assume, short of the complete annihilation of the subordinate government.

There are, however, certain essential features and conditions which may be found wherever the colonial protectorate exists. These may be summarized as follows: first, that the native authorities continue to reign, and that the local institutions and customs shall not be interfered with; second, that the protected state has political relations with the protecting power only, and that it relinquishes the right of declaring war; third, that it admits a political resident as representative of the protecting power, and thus enables the latter to exercise a personal influence upon the government of the protected state; fourth, that while, as a rule, native laws and customs are permitted to continue in force, they shall yield when the imperial interests absolutely demand. The responsibility which the paramount power assumes will not permit it to tolerate within the protected territory gross misrule, hopeless indebtedness, or barbarous practices which would offend the elementary ideas of humanity. In general, it may be said that international law looks upon colonial protected territory as a part of the protecting state, and holds the latter responsible for conditions within it and for acts emanating from it; on the other hand, with respect to municipal law, colonial protectorates are usually treated as distinct from the national territory, and as not sharing the legal

institutions of the protecting state, nor as subjected to its direct legislative authority.

The protectorates which exist in regions inhabited by barbarian races are, as a rule, intended to be merely ephemeral, and to constitute a veil for speedy annexation. Of this kind are most of the protectorates existing in the central zone of Africa. Treaties of protectorate have been concluded by the hundred with the native chieftains, who very often did not have the remotest knowledge of the true import of the instrument which they were induced to sign. In this manner Stanley created a large number of protectorates in the Kongo State; and Dr. Peters, in a six weeks' journey which he took through the prospective German sphere of influence in East Africa, succeeded in making no less than twelve "solemn treaties," by which the German protectorate was acknowledged over an area of some fifty thousand square miles. Similarly the agents of the great British chartered companies in East Africa, Rhodesia, and along the Niger, concluded numerous agreements with the native chieftains, most famous among which is the treaty in which Lo-bengula admitted the protectorate of the British government over his territories. These treaties are very often so worded as to imply an almost complete cession of sovereignty. Thus the agreement signed by the Wanyassa chiefs contains the following provision: "That we give over all our country within the above described limits, all sovereign rights and every other claim, absolutely

without any reservation whatsoever, to Her Most Gracious Majesty the Queen, for all time coming." [1] Treaties of this kind reveal the purpose of the protecting power speedily to exercise direct political control. But even where a more moderate protectorate is provided for, as in the treaty with Lo-bengula, the supplanting of native authority often progresses very rapidly; so that in general the protectorate cannot be looked upon as likely to become a permanent form of colonial government in the greater part of Africa.

In a similar manner the French, even in dealing with races of a higher civilization, use the protectorate as only a temporary and transitional form, and introduce French law and institutions, together with direct administrative control, as rapidly as the circumstances will permit. It is, of course, conceivable that they may abandon their traditional policy of complete assimilation, at least in such countries as Tongking and Tunis; and there are certain indications that there is growing up among contemporary French publicists and statesmen a feeling of opposition to the current ideas on this matter. However, for the time being, the ideal of assimilation is still in the ascendant, and the average French administrator has no doubts concerning this policy.

Among the French protectorates that of Tunis has departed least from the standard of international law. The direct annexation of Tunis was

[1] Hertslet, *The Map of Africa by Treaty*, I., 188.

declined by Jules Ferry and Freycinet, in order to avoid international difficulties and the assumption of the Tunisian debt, as well as to prevent the interference of the Chambers in the intricate affairs of the African state. The Bey of Tunis was hence retained as nominal sovereign, and the local administration remained everywhere in the hands of the Arab magistrates. The French resident, however, became as Minister of Foreign Affairs virtually the prime minister of the Bey, although that title is borne by a Tunisian; and out of a total of nine ministers, at present, the seven who hold the most important charges are Frenchmen. For the purpose of controlling the local administration (*contrôle civil*) the country is divided into thirteen districts, each of which has its French resident or *contrôleur*. Thus, while the French have preserved the native authorities, they have been able, through the control which their residents exercise, to introduce a large number of reforms modelled upon French methods and institutions. On account of the respect with which the native leaders have been treated, friction like that which made the administration of Algiers so difficult has been avoided in the case of the Tunisian protectorate. The affairs of Tunis are not administered through the French Colonial Office; but, in accord with the quasi-international character of the relation, the Foreign Office acts as intermediary between the French government and the protected state.

In their Indo-Chinese possessions the French

have, in like manner, as in their North African dependencies of Algeria and Tunis, applied both methods, that of direct administration and that of the protectorate. The French empire in Indo-China is composed of four parts: Cochin China, Cambodia, Anam, and Tongking. These four possessions are united under the administration of a governor-general, who is dependent upon the Colonial Office. This fact indicates a tendency and intention to treat all the parts of Indo-China as colonies. Thus far, however, Cochin China alone is under direct colonial administration, while the other provinces are considered protectorates.

In this region the French have an advanced civilization and a highly organized social life to deal with. The Chinese social and political system has furnished the model for Anamite institutions; simple and peaceful ideals lend dignity to the life of the people, who are guided by men whose position of leadership is acquired through intellectual attainments. The universal respect which the mandarins generally enjoy among the people is merited by their high character and genuine devotion to the public welfare. Although with them, too, the Chinese system of "squeezing" prevailed before the French occupation, and no settled fee system was established, the sum total of their exactions was by no means exorbitant, and did not compare with the present cost of administration. Under their government the people were uniformly well-to-do, the extremes of wealth and poverty were

absent, and luxury was unknown. In Cochin China this local civilization was ruthlessly attacked by the French in their attempts to introduce, as rapidly as possible, the complete system of European institutions. The mandarinate was reduced to an empty title, which was usually bestowed upon appointees of no credit or influence among the people. In general, French administration in this colony, by common consent, stands out prominently as an example of the evil effects of arbitrary interference with a native social system.

The adjacent kingdom of Cambodia was occupied by the French in 1863, under a treaty of protection. The original treaty authorized the French government to maintain order and authority within Cambodia, to protect it against external attacks, to assist in the collection of imposts, and to facilitate communication with the sea. As a return for this service of protection, free entry was to be accorded to French goods, Catholic propaganda was to be permitted, and the Cambodian forests were placed at the disposal of the French government for the purpose of exploitation by concessions.

In Anam the French protectorate was established by treaty in 1884, when the Anamite court conceded to the French resident the exclusive right of audience. Control over all the departments of government was rapidly developed under this treaty, as it was also in Tongking after the treaty of cession which ended the war of 1885. In both of these protectorates the mandarinate was retained

as an institution of government. The mandarins are elected from the body of educated men by the notables of the local administrative districts. They wield a powerful influence over the native population, who look up to them as their natural and trusted leaders. Unfortunately the French residents have, in general, not been able to overcome a settled distrust of these native officials. During the first decade of French rule, young and inexperienced French assistant residents often issued sweeping orders to the mandarins, who were naturally not anxious to enforce mandates which their long experience and intimate knowledge of local conditions taught them to regard as dangerous. This reluctance to comply speedily with every order from above was interpreted by the French residents as due to a latent hostility and treachery, and the French administration was repeatedly on the verge of sterilizing the mandarinate in the same manner as had been done in Cochin China. Whenever, on the other hand, the governor-general frankly trusted the mandarins and allowed them to solve a certain problem of politics by their own wisdom and upon their own responsibility, he was rewarded by a very prompt and efficient coöperation on the part of these magistrates. In 1891, for instance, the mandarins assisted the French most materially in restoring peace and order throughout the country. Notwithstanding this, though the institution of the mandarinate has been preserved, the French have

thus far failed to profit adequately from the natural strength of the native magistracy, but have often, by unwarranted interference and by unconcealed distrust and jealousy, neutralized its power and impaired its capacity for good.

The most interesting experiments with the protectorate, which are also likely to result in the greatest permanence, are those made by Great Britain in the native states of India. The history of the Indian protectorates is practically the history of British rule in India, and it is, therefore, impossible for us here to give more than the barest outline of their development. After the English had established their territorial empire in India upon a firm basis by the battle of Plassey, they for upward of fifty years avoided the policy of further territorial expansion, and surrounded themselves with a protecting barrier, a *ring-fence*, composed of independent but friendly native states. During this period, which extended to the end of Lord Minto's governorship in 1813, the British governors, with the sole exception of Lord Wellesley, avoided everything that could involve them in new territorial responsibilities. They maintained treaties of mutual protection with their nearest neighbors, such as the states of Oudh, Mysore, and Hyderabad. With the government of these states, however, they in no wise sought to interfere, nor did they attempt to subordinate them to British political tutelage. They merely relied upon a partnership with these allies for protection against

the surging mass of Mohammedan and Mahratta warriors in the interior of India. Nor were they willing to conclude treaties of protection, even when states like Bhopal asked for it.

This stationary policy could not, however, maintain itself. As the power and influence of the Company grew, the men by whom the councils of government were swayed became ambitious for a recognized primacy among the Indian states. So they no longer refused to conclude treaties of protection with the native rulers, and the policy of *subsidiary alliance* or *subordinate isolation* was entered upon. This policy involved the acknowledgment of the Indian government as the protecting power over a constantly increasing circle of neighboring states, which it was the policy of the British to keep isolated as much as possible. Though thus assuming the leadership in matters of external politics, the Indian government continued to refrain punctiliously from all interference with the internal administration of the native states. This policy rapidly led to such a state of affairs that several successive British governors felt themselves obliged to resort to a policy of annexation on a large scale. Freed from the danger of attacks from without, many of the native rulers had given themselves over to an irresponsible life of pleasure, subjecting their countries to unbearable extortion and misrule. The British Indian government, whose treaties of protectorate were indirectly responsible for this condition, saw at the time no other means of solv-

ing the thorny problem of local misgovernment than by the prompt deposition of the offending rulers. The doctrine of *lapse* was developed and applied, by which, upon failure of a direct heir, the territories of a reigning house were held to escheat to the Indian government. These repeated annexations and confiscations of native states, culminating in the deposition of the ruler of Oudh, were the direct cause of the great mutiny of 1857.

After the mutiny had been suppressed and the government of India assumed completely by the British crown, a different, and up to the present final, policy was adopted with respect to the native states, which was based upon the experience of the stormy decades. The policy of applying the pure international model of the protectorate, which demanded complete avoidance of interference in the internal affairs of protected states, had failed, and it had also been shown that a policy of annexation was no less dangerous. To avoid, on the one hand, intolerable abuses in the native states, and, on the other, the wholesale distrust and disaffection of the native princes, it was necessary that the latter while made absolutely secure of their position and heritable rights, should not be permitted to ruin their states by misgovernment. The Queen's proclamation of 1858 accordingly declared that the religious and social institutions of India should not in future be interfered with, while the native rulers were assured of the protection of Great Britain in the maintenance of authority over their inherited

realms. The new policy, to which time has now given the promise of permanency, may be defined as the preservation of native authority and the exercise over it of a considerate control; thus the idea of subordinate isolation has given way to subordinate union. The doctrine of *lapse*, although not formally disavowed, has not been applied in practice since the time of the mutiny. To practically all of the reigning houses, in view of their loyalty to the crown, *sanads*[1] have been issued, assuring them of the right of succession even in case the adoption of an heir should be necessary. In this manner the native rulers have been given a sense of complete security, as there is ordinarily no direct or open interference with their sovereign rights and functions. In the political resident who represents the Indian government at the native court, the rajah sees but a helpful adviser, whose ripe experience he is glad to rely upon in difficult cases. Whenever the resident is forced to bring influence to bear upon the regent, it is done in a manner calculated not to offend the latter's dignity or sense of importance. The great problem of the resident is to induce the regent to identify his own interests with the policy of the imperial government. Nowhere is it more necessary for those in power to adhere to Burke's famous principle that "nations are governed by a knowledge of their temper and by a judicious management of it."

[1] Formal letters having the force of an edict.

The restrictions which are imposed upon the native states may be summarized as follows. They are not allowed to engage in war nor in any kind of armed hostility on their own account, nor are they allowed to entertain political relations with each other or with a foreign power; no loans can be negotiated by them with foreigners nor with British subjects without the consent of the resident; customs and duties must not exceed a reasonable rate; complete religious toleration is enforced throughout the native states; gross misrule and the prevalence of inhuman practices or offences against public morality are a valid cause for interference by the Indian government. Lord Harris, in a letter addressed to the Nawab of Cambay, in 1890, thus defines the position of the government: "The British government cannot consent to incur the reproach of enforcing submission to an authority which is only used as an instrument of oppression."

In cases of misrule, the interference on the part of the Indian government, however, has since the mutiny never proceeded farther than to require a change of native sovereigns; the assumption of direct authority has in no case been considered advisable. Consequently, the area of the native states has not diminished since 1858; on the contrary, it has been increased by the addition of the territory of Mysore, which since 1831 had been under the direct administration of the Indian government. While the native ruler had not been

deprived of his formal dignity, it was only in 1881 that the actual power of governing was restored to the Rajah. The deed of transfer[1] made on this occasion contains a complete statement of the relations between the Indian government and the native state, and hence constitutes an exceedingly valuable document. In two other states, Baroda and Manipur, interference has been necessary. The Gaikwar of Baroda was dethroned in 1875, on account of gross misgovernment. A young prince of the same house was, however, appointed his successor, during whose minority the resident, General Sir Richard Meade, reformed the entire administration according to British models. Owing to this temporary direct control by a British resident, the states of Mysore and Baroda have, among all the native states, made the greatest progress in administration. In Manipur the cause for intervention was an internal rebellion, and here, too, the ruling house was maintained in authority.

While the native states are denied the right of independent warfare, and while the number of soldiery within their limits is fixed by the orders of the Indian government, their military spirit has been fostered to a certain extent and enlisted in support of the empire. In 1885, when hostilities threatened on the northwest frontier, and again in 1887, the Indian government received from several of the native princes the offer to supply a contin-

[1] The text is given in full in Lee-Warner, *Protected Princes of India*, pp. 166–171.

gent of troops for the imperial defence. This offer was finally accepted by the government, and at the present time twenty of the native princes together maintain eighteen thousand troops for the purpose of assisting the Indian army. These Imperial Service Troops, which are, however, only a part of the armies of the native states, are commanded by native officers and are under the control of their respective rajahs. Only in time of actual service do they come under the command of the general-in-chief of the Indian army. The Indian government supplies a number of British officers, who assist the native commanders in training the troops according to European standards of efficiency.

Questions of great difficulty are involved in the gradual extension of British jurisdiction over the native states. While, as has been shown, the character of these states as independent subjects of international rights has been destroyed, they still retain enough of their former status to be considered technically as outside of the British Empire in so far as territorial jurisdiction is concerned. Their relation to the Indian, and through that to the British, government is a personal one, and as a general rule the laws of Parliament and of the Indian legislature can have no territorial application within them. The administration of the native states can be controlled to a certain extent through the residents to whom special orders are given by the Foreign Office of the Indian govern-

ment. But it is important to inquire whether there is not a more direct way by which general Indian or British legislation can reach the administration of the native states.

There are three sources of the latter kind of direct influence: first, extra-territorial jurisdiction; second, the provisions of the Indian Councils Act; and third, special treaties and arrangements concluded by the governor-general of India as representative of the imperial power. As will be shown more fully in Chapter XVIII., extra-territorial consular jurisdiction has been used throughout the world for the purpose of introducing the national law into colonial regions, and especially into protectorates. The jurisdiction over the subjects of the colonial power itself and over foreigners in the protectorate who owe allegiance to a friendly state, in addition to an ever increasing amount of consensual jurisdiction over natives (in cases where native suitors voluntarily appeal to this jurisdiction), grows in compass and intensity so as gradually to displace the original native systems. The British Foreign Jurisdiction Act of 1890, which regulates this matter, applies to foreign countries which are not of European civilization and also to the protectorates of Great Britain. The special jurisdiction of British courts in such regions is under this act regulated by Orders in Council, by which the courts are given jurisdiction ordinarily in the following cases: over British subjects and their property; over foreigners, including natives in protectorates,

who submit their cases voluntarily; and over foreigners whose sovereigns have by treaty placed them under this jurisdiction. Whenever a protectorate is established, the jurisdiction of the foreign consular courts within the region it embraces, is by treaty merged in the jurisdiction of the courts of the protecting power. In many cases the simple quasi-consular jurisdiction over British residents and foreigners constitutes the total extent of British interference with jural relations in the protected states; but this system is easily extended to embrace litigation among natives by consensual jurisdiction, and it also has a strong influence by example upon the native laws and courts. Treaty provisions which would prevent the exercise of direct legislative action with respect to the native states do not affect this quasi-consular jurisdiction.

By the Indian Councils Act of 1861, the Indian legislative council was given the right of making laws "for all servants of the government of India within the dominion of princes and states in alliance with Her Majesty." This power was subsequently extended to the making of laws for native Indian subjects and "for all British subjects of Her Majesty" within the native states.[1] As the term "native subjects" includes only the people of British India proper, and not of the protected states, the Indian legislature is not given any rights of direct territorial legislation within the latter, nor

[1] The Government of India Act of 1865, and the Indian Councils Act of 1869.

can it empower the British Indian courts of justice to extend their jurisdiction beyond the strict limits of the territory of direct dominion. It may, however, by legislating for the official residents at the native courts who are "servants of the government of India," exert a considerable influence upon the affairs within the protected states. When the ruler of Bhopal, in 1863, objected to this exercise of legislative power, on the ground of the treaty provision that the jurisdiction of the British government should not be introduced into her principality, she was answered, that the ordinary judicial system of British India would not be extended to the native states, but that there could be no valid objection to an exercise of sovereign power over British servants and subjects even beyond the boundaries of the territory of direct dominion.

The Governor-General in Council has extensive powers in this capacity as representative of the sovereignty of the British crown. He may thus make arrangements with individual native states, by which jurisdiction in certain matters is transferred to British courts. In this manner all litigation arising out of the affairs of railways and telegraphs within the native states has been placed under British jurisdiction. In some cases a complete cession of the land to be used for railway purposes was made to the Indian government, but it has been found more advisable to secure only a transfer of jurisdiction. In a similar manner the jurisdiction over the territory occupied by

the residency buildings and by military stations is exercised directly by the Indian government.

Thus there are a number of channels through which, without any breach of treaty obligations, or the open assumption of direct control, British jurisdiction may enter the protected states. Native law and custom continue to exist, and it is not an object of British policy entirely to supersede them. The influence of the British courts and law is, however, steadily growing stronger, both through the jurisdiction in cases affecting the great transportation interests, and through the voluntary appeal to British tribunals on the part of the natives. As the common law of the King's Court, by means of doctrine of the King's Peace, and the system of writs, gradually displaced the varying and conflicting local customs in mediæval England, so in India a common law, based on English principles but adapted to the local needs, is in the process of development throughout the protected states.

The native states of India, as it were, form islands in the territory of direct dominion, which break the monotony of uniform administration and thus make diversified experiments possible; they are also looked upon as bulwarks against sweeping movements of insurrection among the natives. Both in the matter of expense and of responsibility this system takes a heavy burden off the shoulders of the British, while it affords the native rulers an opportunity of learning the meth-

ods of good government through constant association with British officials of wide experience and trained ability. The system inspires the natives with a feeling of confidence in the motives of the British, and of security in the enjoyment of their inherited customs and civilization, which reacts favorably upon the population in British India. For these various reasons the protectorate is quite generally regarded as a permanent institution in India, as far as any policy may be called permanent, in the sense that there is no present likelihood that it will be superseded by direct administration.

The same method of dealing with native states has been applied with the very best results by Sir Andrew Clarke in the Malay Peninsula. When he arrived at Singapore, in 1873, to take charge of the government of the Straits Settlements, the adjoining states were in a condition of revolution and lawlessness. Terrible feuds were being waged between the natives and the immigrant Chinese miners, there was no security of life or property, and all industrial and commercial activities were practically suspended. So serious was the condition that the chiefs of Perak were induced to place themselves under British protection. By the Treaty of Pangkor, in 1874, they acknowledged their inability to cope with the difficulties, and declared their readiness to receive a British resident, "whose advice must be asked and acted upon in all questions other than those touching Malay religion and custom." In brief succession the other Malay

states concluded similar agreements with Great Britain. In a speech before the London Chamber of Commerce, in 1889, Sir Andrew Clarke described the methods by which these gratifying results were attained, in the following language: "The principles upon which I acted were very simple. Personal influence has always great effect upon natives of the type of the Perak chiefs, and this influence I endeavored to apply. Where it was possible, I sought interviews with them and pointed out the effects of the evils from which the country was suffering. Their real interests were peace, trade, and the opening up of their country. In place of anarchy and irregular revenues, I held out the prospect of peace and plenty. I found them in cotton. I told them that, if they would trust me, I would clothe them in silk. Their rule had resulted in failure. I offered them advisers who would restore order from chaos without curtailing their sovereignty. They were willing to listen to reason, as the vast majority of persons, whether wearing silk hats or turbans, usually are." In July, 1895, the states of Perak, Selangor, Negri Sembilan, and Pahang concluded a treaty of federation, and they have since been known under the designation of the Federated Malay States. The British official residents in the various states are now placed under the control of a resident-general, who in turn is responsible to the governor of the Straits Settlements in his capacity as British High Commissioner. The native regents with their

state councils, as well as the Malay headmen of the villages, retain their former authority. A regiment of Malay States Guards has been constituted in analogy to the Indian Imperial Service Troops.

There are a number of protectorates dependent upon the Indian government, which differ somewhat from the internal protectorates described above. They may be designated as frontier or communication protectorates, inasmuch as they are situated either along the boundaries of India or upon routes leading thereto. The boundary protectorate in Asia answers the same purpose as does a neutral state in Europe, with the important difference that, whereas in Europe neutrality is declared by international agreement and is sought by the small states of their own accord, in Asia conditions are not so settled that any state can be trusted to maintain the reserve of neutrality without constant surveillance by the power which is primarily interested. The best example of a frontier protectorate is the state of Afghanistan. The Ameer is not only maintained in his position of authority by British influence against the encroachments of Russia on his boundary and against the rebellious desires of many of his own subjects, but he is also allowed a direct annual contribution of 1,800,000 rupees, as well as arms and ammunition, by the Indian government. As a return for the guarantee of his authority and independence, the Indian government enjoys the right of sole diplo-

matic representation at Kabul, and it expects a policy of loyalty on the part of the Afghan ruler. In accordance with the idea that the Ameer retains his independence, there has been thus far a careful avoidance of any interference in the internal affairs of the protected state. It was the great ambition of the late Ameer Abdur-Rahman to be permitted to have direct diplomatic intercourse with the court of St. James, instead of with the government of India. He desired this as a recognition of his dignity as an independent monarch, and as a distinction over the rajahs of the Indian protected states. The British government, however, did not feel able to grant this request, as the Indian administration considered it essential to the safety of the realm that the relations with Afghanistan should be directly in its own hands. A number of smaller frontier protectorates exist in Baluchistan, where Sir Robert Sandeman practised his masterly policy of gaining influence with the hereditary chiefs by guaranteeing their authority and acting as their friendly adviser, with a degree of success which enabled him to exercise a healthy control and supervision over their actions.

The communication protectorates dependent upon the Indian government are those of Oman, Sokotra, Aden, and the Persian Gulf Political Agency. British political influence is thus intrenched at points which are of the utmost importance to the security of communication with India. The Persian Gulf Political Agency, which has its seat in Bushire in

Persia, is of a somewhat anomalous nature, and it would be difficult precisely to define its character. Its purpose is in general to look after British interests in southern Persia and along the coast of the Persian Gulf. It is, therefore, but the first germ of a protectorate, an informal beginning, which is nevertheless of great importance when we consider the conflicting aims of Russia, Germany, and Great Britain in this region. In these protectorates the British official residents do not interfere with the internal administration, except in the matter of advising sanitary improvements and of protecting British interests.

Among the protectorates of communication we may also include Egypt, at least when we consider the origin and causes of the British occupation. Egypt, though not dependent upon the Indian government, has come under its influence in that the majority of the English officials engaged in the Egyptian administration were trained in the methods and traditions of the Indian civil service. The title of Great Britain to an open and avowed protectorate over Egypt is by no means clear, as there are no treaties upon which it can rest. Great Britain has therefore never proclaimed a protectorate, but has relied upon continued occupation to ripen her *de facto* control of Egypt into one of customary right. By the side of English influence in Egypt there exist a number of international institutions — a fact which gives added reason for considering the claim of sole protectorate impolitic for the present. The inter-

national control of the public debt administration — the *Caisse de la dette* — and the international Mixed Courts which have jurisdiction in all cases in which the rights of a non-Egyptian citizen are involved, constitute an important part in the governmental machinery of the realm. Among the nations interested in Egypt the French especially have gained a strong foothold: their colony in Egypt numbers upward of fourteen thousand, many government appointments are held by Frenchmen, the language of the Egyptian courts is French, and their law is modelled upon the Code Napoléon; and, in general, the influence of French civilization and literature is very marked among the upper classes.

When the English undertook the sole occupation and control, their position, considering the financial difficulties in which Egypt then found itself, was not an enviable one. But silently they went to work, and, led by the genius of Lord Cromer, they directed their best efforts to the reform of the financial and economic situation of Egypt, with the gratifying result that the credit of the khedival government is now practically as good as that of any European power. They accomplished this remarkable achievement of raising a poverty-stricken government from apparently hopeless bankruptcy to a condition of economic independence and gilt-edged credit, by the simple and direct method of insuring the constant fertility of Egyptian lands by vast irrigation works, and thus creat-

ing the basis upon which a sound financial system could be built. The foreign creditors of Egypt, seeing their bonds appreciate, and drawing their interest regularly, have no reason to complain of the English rule. The entire internal administration, including the police, has passed under English control, so that Egypt presents a rather anomalous example of a protectorate — one in which the protecting power does not concern itself so much about external affairs as about a reform of the internal administration.

The position in which the English found themselves in Egypt necessitated the most delicate management, both with respect to the great powers directly interested, and to the Egyptian government itself. The work has been accomplished without openly superseding the native authorities, by the simple method of influencing them through the advice of an official resident. His position as British agent and consul-general is Lord Cromer's sole official title to power. A thorough mastery of the difficult art of managing men, an intimate knowledge of the needs of the Egyptian government, and a clear understanding of the manner in which they could be met, have enabled the British resident to wield his influence. In order that the administrative reforms might succeed, it was necessary to place a limited number of British officials in the Egyptian service as agents of control and advice. It was in this manner that Lord Kitchener became the Sirdar, or commander-in-chief, and

as such won his victories in the Sudan ; Sir William Garstin superintended the great irrigation and drainage constructions as Under Secretary of Public Works ; and Sir John Scott acted as adviser to the Department of Justice.

Notwithstanding the general success of the British administration in Egypt, the rivals of Great Britain have by no means acquiesced in the permanence of the occupation, and Mr. Gladstone's promises of speedy withdrawal, as soon as order could be established, are well remembered and kept in reserve, to be used whenever a suitable occasion may arise. The position of Egypt in international law it would not be easy to define with exactness. Legally she is a vassal state of Turkey ; by treaty the great powers have acquired a status in her administration ; and *de facto* the British government exercises sovereignty. Few are the Egyptians who know their real masters.

The Dutch in Java have proved themselves great adepts in the art of utilizing native institutions for the purpose of colonial government. The protectorate there has completely lost all vestiges of its international character, and has become purely a method of internal administration. The policy of non-interference with native customs and institutions, however, is scrupulously observed, and everything that might lead to a disintegration of native society is carefully avoided. Not only are the reigning families made secure in their position, but any attempt on the part of the natives to assimilate

themselves to the Europeans is discouraged. An impassable gulf is fixed between the Javanese and their rulers; no instruction is given the common people in the Dutch language, nor are they permitted to adopt European dress and customs. Their continued adherence to the Mohammedan faith is in every way encouraged, and in general the religious *adat* or custom has been preserved as a bond of social union. The complete hierarchy of native officials, from the "emperor" and regents down to the local administrators and the village chieftains (*wedanas*, *mantries*, and *loerahs*), is still in existence, and presents to the eyes of the natives historic continuity and customary authority. The native officials are salaried by the Dutch government, and are in all matters completely under its control and subject to the orders of the residents.

Java is divided into twenty-two residencies or provinces, each of which comprises several regencies. Each native regent is under the direct supervision of an assistant resident, who exercises the gentle but firm sway of an "elder brother." The lower branches of the administration, and especially the various economic interests of the state, such as the government coffee farms, are under the special care of *contrôleurs*. This system of a twofold hierarchy of officials works in general very smoothly, and enables the Dutch to carry on the government without breaking up the native society, or destroying its morale by the introduction of the solvent of European ideas and institutions.

In the other Dutch islands of the Malay Archipelago the residential system is also used; the authority of the native rulers is greater than in Java and they often enjoy virtual independence in their domestic affairs.

The political side of German colonial activity first expressed itself in the form of a protectorate, — a protectorate rather over German trade and industrial enterprise than over native states. As recently as 1880 there was so little enthusiasm for colonial undertakings in Germany, that a bill to protect the *Deutsche Seehandelsgesellschaft* in Samoa was defeated in the Reichstag. In 1884, however, the Lüderitz factories in Angra Pequena in South Africa, were taken under German protection, and in the following year this privilege was extended to the East African Company and to the New Guinea Company. The German government was at this time very cautious, and extremely disinclined to engage in the work of colonization itself. It preferred to leave this to private companies, giving them at first a somewhat reluctant protection. In the first instructions to Dr. Nachtigal, in 1884, the Chancellor says in substance, "The creation of an administrative system with a large number of officials, the instalment of permanent garrisons, and the assumption of the duty to give aid to these factories during a war with a great naval power, is not the purpose of the government." About the same time, on June 24, 1884, Prince Bismarck made a notable speech in

the Reichstag, in which he condemned the French system of colonizing, with its garrisons and officialdom. He outlined his own policy of granting charters to private companies, which would assume the responsibility for the material development of new regions, and to which certain governmental powers were to be conceded. Through consular or residential courts, Europeans might be guaranteed an adequate protection of law. "Our purpose is not," he said, "to found provinces, but to protect commercial undertakings, including such as exercise a certain territorial sovereignty."

It did not, however, long remain possible to avoid the exercise of direct administration within the colonial territory, as the companies were not strong enough to create an efficient administration, and as there was no higher native civilization to the natural leaders of which the care of public affairs could be intrusted. In Togo and in Kamerun the government was from the first obliged to institute direct administration, in the absence of any private organization ready to undertake the task. The Southwest African Company never acquired the financial strength necessary for the complete establishment of a colony; and on the east coast the Arab revolt of 1888 necessitated direct governmental interference, which resulted in the East African Company's giving up its political rights in 1890. But, though the original principles of German colonization were so soon abandoned under the stress of circumstances, the origin of German

colonial policy has left its trace in the designation of colonies as *Schutzgebiete*, and in the fact that the entire jural legislation concerning the German colonies is a development of consular or extra-territorial jurisdiction. The German colonies are, with respect to the mother country, regarded as foreign territory, over which the protecting power of the empire has been extended, but which do not come under the provisions of the German constitution.

It has already been indicated, but may here be specifically noted, that a protectorate over a state which enjoys a relatively high degree of civilization very often originates in consequence of financial difficulties. Thus, when Bey Sadok of Tunis, in 1869, found his treasury in a condition of insolvency, he was compelled to have his affairs regulated by France, England, and Italy. After a brief improvement, his state became worse than before, and he continued to squander his resources so recklessly that he soon incurred hopeless bankruptcy, which, in 1881, led to the occupation of his territory by his principal creditors, the French. In a similar way the accumulated indebtedness of the Khedive of Egypt led to interference by the European powers, and it was by showing herself best able to find a way for Egypt out of the financial difficulties that Great Britain gained her predominant influence there. In Persia the Russian policy of securing the position of a protecting power scored a decided advance in 1900, when, in return

for a loan of twenty-two million rubles, the government of the Shah engaged itself not to borrow money of any other state except Russia, and to pledge the customs revenue of northern Persia as security. Russia could well afford to make this loan at a low rate of interest, even though she herself had to borrow the funds for that purpose. But the most striking illustration of this method of insinuation into the political affairs of a weaker state is afforded by the manner in which the western nations are gradually causing the Chinese Empire to become more and more indebted to themselves. Unless the Chinese will organize their resources and strain every nerve in holding them together and utilizing them, their financial helplessness will lead to their gradual political enthralment. Japan, on the other hand, has carefully avoided giving to other powers this opportunity of interfering with her affairs. Her public debt is not large, and it is, with the exception of the foreign loan of 1899, held almost entirely at home.

From the point of view of international politics, the colonial protectorate affords certain advantages which have been fully appreciated by contemporary statesmen. The protectorate, starting from small and unobtrusive beginnings, permits the exercise of a gradually increasing influence, and culminates eventually in complete administrative control. To a certain extent it neutralizes opposition, and enables a government to take tentative

measures, which can be more readily modified or retracted than when direct occupation has once been undertaken. Renan's remark that in scientific truth everything depends on *nuance*, is no less true of political action; and although the protectorate may and usually does ultimately lead to direct administration, it seems to be of a *nuance* decidedly more pleasant, or, at least, more endurable, to the rival powers than is the forcible and inconsiderate occupation of territory for the purpose of exercising direct control.

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CHAPTER IX

CHARTERED COMPANIES

During both of the great modern eras of colonial expansion, chartered companies have been an important instrumentality in doing the pioneer work of colonization, and in preparing the way for direct political control by the mother country. A very large number of such companies were created in the earlier period by the governments of England, Holland, France, Prussia, and Sweden. So prominent a factor were they that practically the entire work of originating actual colonization was performed through their efforts and enterprise. The most important English companies of this era were the Merchant Adventurers' Company, the earliest of these organizations, chartered in 1407; the Virginia and the Massachusetts companies; the East India Company of London, and its successor, the British East India Company; the Royal African Company; and latest among the more important, the Hudson Bay Company. The other nations were represented by the Dutch East India Company, the Dutch West India Company, the French East India Company, and various smaller French, Dutch, Prussian, Danish, and

Swedish organizations. Most important among all these, on account of the compass of their operations as well as the duration of their existence and power, were undoubtedly the East India companies of the British and the Dutch.

As the central thought and main purpose in all these organizations was the enjoyment of commercial monopolies within a certain region, the political powers which they exercised were primarily those which were necessary to protect them in their exclusive privileges. Governmental powers over the native tribes with which the companies came in contact were granted incidentally to this general right; but the companies did not originally claim such sovereignty, nor did they, after political power had been acquired by them, use it for the purpose of modifying local customs and institutions in the direction of conformity to European standards. The British East India Company was first induced to enter the field of politics by the attempts of the French to make themselves the paramount power in India and the sole masters of its commerce. Even after their victory over the French, the British for a long time carefully adhered to a policy of stationary boundaries and non-interference with the native political and social institutions. To a still greater extent did the Dutch East India Company pursue a purely commercial policy, abstaining from all attempts at moulding the native elements to a higher form of civilization. The company used its great influ-

ence solely for protecting its trade monopoly, and for freely exploiting the commercial advantages of the new regions. Thus, though the native societies were subject to the influence of the company, they were by no means threatened with disturbance and disorganization through an attempted introduction of European political and social methods.

These great companies were practically free from any supervision on the part of the home government. After granting the charter, the government paid little heed to the activities of the merchant adventurers, and it was only at the end of the eighteenth century that a beginning was made in the exercise of strict control. The period of the greatest activity of the chartered companies was the seventeenth century. The more important among them continued their work and influence during the eighteenth; but by the end of that century the mission of the chartered companies was, for the time being, practically completed, and it was waning greatness and departing methods that Adam Smith attacked in his famous chapter on companies.[1] The Dutch East India Company transferred its holdings to the government in 1795; the British East India Company lost its commercial monopoly soon after this date, although it continued to carry on the Indian government as a trustee for the British crown until 1858; the Hudson Bay Company, the last among these great

[1] *The Wealth of Nations.* Book V., Ch. I., Pt. III.

and efficient organizations, ceded its territories to the government in 1870.

But soon after these companies had passed from the stage of history, conditions recurred, similar to those under which they had accomplished their work. The world again became intensely interested in colonial expansion, and as the great nations in the former era had contended for their share in the rich produce of the new countries, so they now began a keen competition for territorial control over hitherto unappropriated regions. In this struggle, as in the former rivalry for trade, chartered companies have become the main instrumentality for the expansion of national influence and power. The companies which have been most prominent in this second age of expansion are the following: the British North Borneo Company, founded in 1881; the Royal Niger Company, 1886; the Imperial British East Africa Company, 1888; the British South Africa Chartered Company, 1889; the German New Guinea Company and the German East African Company, 1885; the Portuguese Mozambique Company, 1894; and the International Congo Association, 1879. Among these, the North Borneo Company is of special interest as constituting the first revival of the old practice, and as forming a precedent for subsequent organizations; as is also the South Africa Company on account of its financial strength and its great political influence. The International Congo Association is the only one among these corporations

which has created an independent state. Its existence, however, merely constituted a transition to personal control by the king of Belgium, who in turn will give way to the Belgian state.

The North Borneo Company was originated through the efforts of Mr., now Sir Alfred, Dent, who had acquired important concessions and grants from the sultans of Brunei and Sulu. The former granted to Mr. Dent full sovereign rights over North Borneo, including power of life and death over the inhabitants and the exercise of complete territorial sovereignty. The sultan of Sulu made a similar grant upon condition that the rights should not be transferred to any other nation without the consent of the government of Great Britain. After obtaining these grants, Mr. Dent organized a company and applied to the British government for a charter confirming the powers bestowed upon him by the sultans. The Conservative ministry, which was at that time in control, did not accede to this request, and it remained for the succeeding Liberal Minister of Colonies, Lord Grenville, to set the important precedent of granting a governmental charter to a colonial company. He justified this act before Parliament on the ground that it was the only manner possible to avoid two unwelcome alternatives, namely, the assumption of direct sovereignty over the region in question, or its abandonment to rival nations.

The North Borneo Company, after its charter had been granted, was in a somewhat equivocal

position in the eyes of international law. The Colonial Secretary maintained that the granting of the charter did not constitute an assumption of sovereignty, nor even the creation of a protectorate on the part of Great Britain. In international law, however, territorial acquisitions by any subject are held to accrue to his state or sovereign. This matter was regulated in 1888, when a formal protectorate was declared by Great Britain over all of North Borneo, including the company's territories, as well as Sarawak and Brunei. The peculiarity of the North Borneo Company is found in the fact, that it was to operate in territory not then in any way controlled by Great Britain, and that it had already received from other sources concessions of full sovereignty. By granting a charter the government simply added its sanction, and, in assuming an implied responsibility for the acts of the company, imposed on the latter a certain liability to administrative supervision, and certain duties toward the native population.

The British South Africa Company is the creation of the genius of Cecil Rhodes. It was he who prepared the way for its operations, who placed it upon a sound financial basis, and who inspired and guided its corporate acts. When the company began its work, the region which it now occupies was by no means estimated at its full value by the European governments and merchants. Nevertheless, Lo-bengula, the ruler of Matabeleland and Mashonaland, which together

constitute the greater portion of this territory, had already been approached by German and Portuguese emissaries, when an agent of Rhodes, in the nick of time, induced the chief to conclude a treaty of protectorate with Great Britain, by which he bound himself to have diplomatic intercourse with no other power. This treaty was followed by the concession of important mining rights to a group of English capitalists.

In 1889 Cecil Rhodes organized the British South Africa Company, and secured a charter for the purpose of developing the natural resources and establishing law and order within the new British sphere of influence. As during the subsequent year he became premier of the Cape Colony government, he was in a position to obtain the coöperation of the various authorities in South Africa in carrying on the work which the company had undertaken. So successful were his efforts that within five years the country immediately north of the Transvaal could be reached by railway, and that its interior had been made accessible through the construction of good wagon roads. Forts and settlements had been created, and a telegraph system bound the most outlying parts of the company's territories to the South African metropolis. The growing power of the company excited the jealousy of the native leaders, which, together with their resentment at foreign intrusion, led to the Matabele and Mashona wars of 1895. After this difficulty had been speedily settled, the

company was suddenly brought into great discredit by Dr. Jameson's attack upon the Transvaal. While of course not officially authorized by the company, the raid, organized by one of its chief agents and evidently encouraged by Rhodes himself, caused a feeling of strong popular opposition to the company to spring up, which resulted in a demand for stricter governmental control.

While the charters granted to the British companies differ somewhat in detail, they contain in general the same leading principles of organization. The charter of the North Borneo Company forms a model whose outline and details are adhered to in the charters of the Royal Niger Company and of the East Africa Company. In the case of the South Africa Company, the later events just mentioned have caused some material modifications. The charters provide that the companies must preserve their British nationality, although they are permitted to fly their own special flags. They are granted the power to make all ordinances necessary for the establishment and maintenance of law and order, to levy such taxes as may be required to meet the governmental expenses, to employ a police force, and to appoint all civil and judicial officers necessary in the administration of government. With respect to the supervision exercised by the home government, it is provided that the companies cannot transfer any of their concessions without the consent of the government; that the latter is the arbiter between the

native rulers and the companies; that it controls their foreign affairs and their policy concerning the natives; and that the appointment of the governor must be approved by the Colonial Office. The charters also lay some general restrictions upon the governmental powers of the companies. Commerce must remain free, except for such customs duties as may be necessary to cover the actual expense of administration. The companies are enjoined to abolish slavery within their territories, but to respect in general such native laws and customs as are not contrary to humanity. The religious observances of the natives are not to be interfered with by the authorities, although missionaries are to be allowed to carry on their work.

To these provisions, which are common to all the charters, there are added, in the case of the British South Africa Company, certain further restrictions. By the Matabeleland Order in Council of 1895, the Senior Administrator, or governor, was given a council of four high officials, whose advice he must consider before deciding upon any important act. Moreover, the courts in the company's territory are bound to follow the law of Cape Colony in cases not provided for by local ordinances. As a consequence of the dissatisfaction with the company's management, caused by the events of 1896, there were passed the Southern Rhodesia Orders in Council of 1898, which contain the following provisions: a resident commissioner of Rhodesia is appointed, whose duty it

is to represent the home government and to supervise the company's administration; the council of the Senior Administrator is enlarged and a legislative council is created which contains four members elected by the colonists; the military forces of the company are placed under the control of the British High Commissioner for South Africa. These provisions constitute the beginnings of a transition to a crown colony government for Rhodesia, and it is interesting to note that at this early stage a beginning has already been made toward representation of the colonists in the legislative council.

The services of the English chartered companies in assisting the expansion of British power cannot be overestimated. At a time when the government was not ready to undertake the occupation of these regions, when it could only with difficulty have obtained from Parliament the funds necessary for their administration, the companies stepped in and secured for their country many valuable tracts which were eagerly coveted by other nations. While Sir George Taubman Goldie, the founder of the Royal Niger Company, was attending the conference at Berlin in 1885, he found out that a German explorer was on the point of starting for the regions of the Upper Niger for the purpose of concluding treaties with the native rulers. Sir George lost no time, and immediately despatched his agent, Mr. Joseph Thompson, on a similar errand. When

the German emissary reached the Niger territory, he met Mr. Thompson returning from the interior in the happy possession of a complete set of treaties with the Sokoto rulers. Even before this, French merchants had been active along the Niger, and a lively competition ensued, which, however, through the diplomacy of Sir George Goldie, ended in the absorption of the two French companies by the British. When the British East Africa Company began operations in the interior, Dr. Peters, the representative of German interests, was already actively engaged in forming political relations within its prospective sphere of action; and when its agents had penetrated as far as Uganda, they encountered a strong feeling in favor of France, which had been created by the Roman Catholic missions. In a similar manner, the South Africa Company forestalled the action of the Germans and the Portuguese, and it also defeated the project of a great northward trek, which the Dutch of the Transvaal were quietly planning.

The territories which were thus disputed by foreign influence were not only vast in extent, but also exceedingly rich in natural resources and in commercial opportunities. The territory added to the British Empire by the various companies embraces, in round numbers, the following areas: by the Royal Niger Company, 500,000 square miles; by the East Africa Company, 750,000 square miles; and by the South Africa Company,

500,000 square miles. As the total territorial expansion of the British Empire in Africa during the past twenty-five years has amounted to 2,500,000 square miles, it will be seen that more than two-thirds of this increase was secured by the activity of private individuals organized in chartered companies.

These striking results were obtained with great rapidity and at a trifling cost, when their magnitude is considered. The extension of the Royal Niger Company's protectorate over the Sokotos was accomplished by Mr. Thompson within six months; the celebrated Selous road from Mafeking to Fort Salisbury, a distance of four hundred miles, was surveyed and built in less than a year. It took only five years for the South Africa Company to construct the framework of industrial and political life throughout its territories. The East Africa Company accomplished its great work in six years, while a period of fourteen years was all that was needed by the Royal Niger Company for firmly establishing British rule in a region beset with dangers and difficulties.

The cheapness of these great operations is no less surprising than their rapidity. None of the companies ever asked for, or received, any governmental subsidies for the purpose of carrying on their work. For financial resources, they were dependent upon the money subscribed for stock and the returns from their undertaking, concerning which there could not be any high expectations

for the first few years. The affairs of the companies were hence administered with the greatest economy, and they offered but scant opportunity for promoters' profits. The entire territories and possessions of the East Africa Company were turned over to the government in 1894 for the sum of £250,000. As the Sultan of Zanzibar, on account of some claims against him, was made to pay £200,000 of this amount, a paltry £50,000 was the total cost to Great Britain of this magnificent empire. The Royal Niger Company transferred all its possessions and grants to the British government for the sum of £865,000.

The administration of the South Africa Company has also been very economical. Upon all the improvements carried out during the first five years, the building of roads and fortresses, and the establishment of a regular police and administration, only a little over £1,000,000 was spent, while the cost of the war against Lo-bengula, in 1893, which is included in this amount, was only £110,000. It is not surprising that, having to meet the expenses of virtually founding new commonwealths, and with no subventions to draw upon, the companies have not been able to pay high dividends to their stockholders. The Royal Niger Company, which alone among them all engaged actively in commerce, succeeded in declaring a dividend of six per cent for several years, and the North Borneo Company has been paying one per cent to its stockholders. Neither of the

other two companies has paid any dividends. As Sir William McKinnon, the president of the East Africa Company, declared, its stockholders had to be satisfied to take their dividends "in philanthropy."

Notwithstanding this absence of ready financial returns to the investors, capital has always been forthcoming in abundance for the purposes of the companies. Some issues of British South Africa Company stocks were placed even at far above par. While it is true that the investors felt confidence in the ultimate financial success of these ventures, it is also undoubtedly a fact that many of them were animated by other than purely financial motives. The work that was being done appealed to their sense of patriotism, and it was looked upon as a certain honor to be a stockholder in one of those great companies that were smoothing the roads for imperial expansion. Many of the larger stockholders were also looking for opportunities to obtain concessions and other openings for financial enterprise in the industrial development of the new regions.

As none of the companies was permitted to use its taxing power for the purpose of creating a dividend, Cecil Rhodes developed a scheme by which his company is to share in the produce of the mining concessions given to individuals or to private corporations. Fifty per cent of the vendor's script is to go to the Chartered Company, which will thus be enabled to make a return to its

stockholders. This system will be a very interesting precedent when direct crown government comes to be established in Rhodesia, as it may lead to part ownership, by the government, of the mining resources of the country, unless the special property rights of the company should be allowed to come into the hands of private corporations. One of the most serious objections that has been made to the company's régime in South Africa lies in the fact that the territorial and mining wealth of Rhodesia has been practically all granted away to individuals and corporations, in the form of concessions which will become a permanent mortgage on the country, and will, to a large extent, rob it of the condition of freedom and equality of opportunity that makes new countries so attractive to settlers.

The International Kongo Association traces its beginnings back to 1876, when the International African Association was formed at Brussels for the purpose of exploration and development in the Dark Continent. In 1879 the Belgian branch of this society, which had assumed the name of the International Kongo Association, and in which King Leopold of Belgium was the moving spirit, employed Mr. Henry Stanley to ascend the Kongo River for the purpose of planting stations and concluding treaties of protectorate with the native rulers. While the Berlin Conference of 1885 was in session, the sovereign rights of the association were recognized by individual treaties with the

powers, which also fixed the boundaries of the new Independent State of the Kongo. The association, however, acted in this case simply as the agent of the King and for the purpose of acquiring a colony for Belgium. Leopold II. exercised the sovereignty over the newly created state, and in 1889 he bequeathed his rights to Belgium, which is now heir apparent to a rich colony acquired for it by very shrewd means. In 1890 a formal convention was concluded between Belgium and the Independent State by which the annexation of the latter after a period of not less than ten years was arranged for. As Belgium has not yet entered upon full fruition of its expectancy, the Independent State still has its separate central government, which is located at Brussels, and comprises a ministry of foreign affairs, of finance, and of the interior. The administration of the colony has in general been successful; order has been established, means of communication provided, and the opportunity created for large investments of Belgian capital, which have brought unusually rapid and high returns. The treatment to which the natives have been subjected by the officials in the Kongo State has, however, been a disgrace to this colony.

The companies created by the Germans at the beginning of their colonial career have not been of much service in the matter of establishing political dominion by their own unaided efforts. The Southwest African Company has confined its

operations to the purely economic aspects of colonization. The German East African Company did not weather the first storm of a native uprising, and withdrew from the functions of government in 1890. The New Guinea Company has been more persistent; from 1885 to 1899 it had almost exclusive control of affairs in German New Guinea. In the latter year it resigned its powers of government. Its administration has been much criticised; everything was managed by detailed orders sent out from the headquarters in Germany, without adaptation to local needs, and it is alleged that the handling of the labor problem was especially unsatisfactory. All three of these companies continue in existence, but their activities at present are entirely industrial, and they have definitely forsaken the field of political administration. A smaller organization, the Jaluit Company of Hamburg, has quite efficiently managed affairs in the Marshall Group.

While the German companies in general were not successful in establishing institutions of government, and in relieving the state of the duty of creating the machinery of direct administration, they were, nevertheless, of great assistance in extending the power of Germany over new regions. Their representatives, men like Major von Wissman, Dr. Peters, Dr. Nachtigal, and Otto Finsch, were exceedingly enterprising and active in establishing relations with the native rulers, upon the basis of which the government could assume the

rights of a protecting power and thus extend its control over large reaches of territory.

In the case of the Portuguese possessions in Africa, recent events have led to an exceedingly interesting repetition of history. When, in 1649, the Dutch West India Company threatened the Portuguese possessions in Brazil, the Portuguese government, departing from its settled policy of state monopoly, imitated the methods of its rivals and granted a charter to a private corporation, the Portuguese Brazil Company. It was largely through the efforts of this organization that Brazil was saved for the Portuguese. In a similar manner, when the British South Africa Company began its operations in 1890, it soon came into dangerous proximity to the Portuguese possessions in Southeast Africa, and its purpose to secure an outlet to the sea through the Portuguese coast strip was but ill concealed. In order to provide a counterpoise to the efforts of the British company, the Portuguese government, in 1891, granted charters to two organizations, the Nyassa Company and the Mozambique Company. Their field of activity was to be the region that is tributary to the Zambesi River. The operations of the Mozambique Company centre about Beira, a place which had been much coveted by the British, and which is now the chief outlet for Rhodesian commerce. The Nyassa Company, as its name indicates, has its field of operation in Nyassaland, a region that was in great danger of being absorbed by the South Africa

Company, and which is now enclosed on three sides by British territory.

The Portuguese companies are organized on the English model, with certain modifications. The judicial and legal officials are appointed, not by the company, but by the government, and there are official *contrôleurs* who supervise the company's administration. In all other respects the companies are given full political and industrial control, and the usual humanitarian duties are imposed upon them, with the additional obligation of providing a system of common schools for the natives. While much of the capital stock in these companies is held in France, England, and Germany, their national character is preserved, and is safeguarded by charter provisions, especially in the matter of the selection of officials. There has been a good deal of friction between the Portuguese and the British companies, especially concerning the right of way from Beira to the interior; but as the British government discouraged any extreme measures of advance on the part of the South Africa Company, and as the Portuguese companies entered upon the work of colonization with a good deal of energy, they have succeeded in preserving to Portugal a highly valuable region.

We are now in a position to summarize the characteristics of the great modern companies of colonization, and to distinguish them from the similar organizations of the earlier era. While the older companies were primarily commercial, en-

joying political prerogatives only incidentally, the later are essentially political in their purpose, and exercise all the powers of internal administration. They are, hence, also subjected to a much stricter control on the part of the home government, totally unlike the spirit of *laisser faire* with which the governments of earlier days regarded the great colonial enterprises. The modern companies do not enjoy a monopoly of commerce, nor as a rule have they engaged at all in commercial undertakings. On the economic side of their activities they interest themselves more in industrial development, in the utilization of mines, forests, and agricultural lands, so completely is their character a result of the spirit of the age, which emphasizes industrial exploitation together with the use of political methods in colonization. When these methods are applied directly by the state itself, they are somewhat inflexible and difficult of adaptation to the local conditions; they are, moreover, costly, and lack expedition. All of these defects are, to a large extent, obviated by the use of chartered companies in the initial stages of colonization.

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CHAPTER X

DIRECT ADMINISTRATION

HAVING now considered the various indirect methods of administering dependencies, we are brought to the discussion of the different forms of government in colonies proper. The best known classification of colonies with respect to forms of government is that adopted by the British Colonial Office, under which the English colonies are divided into the following three classes: —

"First, crown colonies, in which the crown has the entire control of legislation, while the administration is carried on by public officers under the control of the home government.

"Second, colonies possessing representative institutions, but not responsible government, in which the crown has no more than a veto on legislation, but the home government retains the control of public officers.

"Third, colonies possessing representative institutions and responsible government, in which the crown has only a veto on legislation, and the home government has no control over any public officers except the governor. . . . Under responsible government the executive councillors are

appointed by the governor alone with reference to the exigencies of representative government; the other public officers on the advice of the executive council. In no appointment is the concurrence of the home government requisite. The control of nearly all public departments is thus practically placed in the hands of persons commanding the confidence of a representative legislature."[1]

At the time when this classification originated, several of the colonies which now have acquired representative government still belonged to the second class, so that this class was of considerable importance. To-day, however, when all the great settlement colonies of England in the moderate zone have been given responsible government, the second class has dwindled down to a few tropical colonies, and the existence of representative institutions without responsible government has come to be a rather exceptional régime. It has practically lost its separate *raison d'être* and has become a subdivision of the general class of crown colonies. As all the self-governing colonies at one time or another passed through this stage, its historical importance is much greater than that which it now actually enjoys. At present there are virtually only two kinds of British colonies, those administered directly by the officers of the crown, and those which are self-governing. In the former the administration is carried on by a governor,

[1] See *Colonial Office List*, 1901.

who is assisted by councils which are appointive or partly elective. The presence of the elective element in the composition of the council does not fundamentally change the character of a colony, unless it rests upon the basis of a large and increasing white population, when it tends to grow rapidly into responsible government.

The other great class of British colonies is composed of the self-governing commonwealths of Australasia, Canada, and South Africa. In these colonies the internal affairs are not interfered with by the mother country; they have almost attained the full growth of independent statehood, and are bound to the mother country by a tie which resembles federation rather than subjection.

The twofold division into crown colonies and self-governing colonies which we have indicated rests not merely on a difference in institutions; it has a basis, too, in physical and especially in climatic conditions. The tropical colonies, where the white settlers are few in number compared with the masses of the natives, or of immigrants from tropical latitudes, are governed directly by the crown, and the home government habitually controls the internal administration. On the other hand, the colonies which are situated in more moderate zones, and are peopled largely by the descendants of Europeans, have, in the natural course of political evolution, developed institutions of self-government similar to those of the mother country. This twofold division is the basis of

classification which most prominent writers on colonial politics adopt. Sir George Cornewall Lewis finds the criterion in the question whether or not a body of persons representing the inhabitants of the dependency exercises a constitutional control over the executive authority. Sir Charles W. Dilke refers to the technical official division of colonies into three classes; but he then proceeds to develop the idea that there are only two great groups of British dependencies, separated, not by institutional forms, but by physical conditions.

When we examine the colonial systems of other nations, we find that their colonies are nearly all crown colonies, or, in other words, they are all under the direct control of the home government, and the system of a responsible ministry has not been developed in any of them. In the older French colonies, the system of elective councils was introduced by a rather fortuitous combination of circumstances: the Second Empire restored the councils and endowed them with a considerable measure of legislative power, while the Third Republic brought in the principle of election by manhood suffrage. The system thus created is not in harmony with the political ideas either of the Empire or of the Republic. The latter demands more complete assimilation, while the former would have refused the right of suffrage to the masses. But though the French have gone to the extreme of creating councils elected by manhood suffrage in some of their less important colonies,

they have nowhere attempted to introduce the principle of ministerial responsibility to the legislature. This latter statement is true also of the German and the Dutch dependencies, which would in this respect all come under the classification of "crown colonies." It must, of course, be remembered that these other nations have to deal almost entirely with colonies in the tropics, which are unsuitable for settlement by their own citizens, and hence for the introduction of institutions such as responsible government.

In the subsequent discussion, which will also include the next two chapters, we shall follow the plan of dealing first with the colonies that are under direct administration by the home government, examining in this connection the duties of the governor and the functions of the executive and legislative councils. We shall then discuss in a separate chapter the results of the experiments in the use of representative institutions within the colonies; and, finally, we shall devote some brief attention to the principles underlying the system of colonial self-government.

There are many colonies that have passed through all the stages of development which we have mentioned. A good illustration of this is afforded by the history of Natal. At first, the region now occupied by the colony was a mere sphere of influence, where the British flag had been hoisted at several places, and where treaties of protectorate had been concluded with some of

the native rulers and tribes within the territory. For a time after the British had frustrated an attempt of the Boers to gain a foothold here, and to found a settlement and an independent state, Natal was administered as a dependency of the Cape government. In 1845 the colony was given a separate administration in charge of a lieutenant-governor with an executive council; shortly after, in 1848, a legislative council was added. In 1856 Natal became independent of her elder sister. Elective members were admitted into the council in the same year, and finally, in 1893, the colony reached the full growth of a self-governing dependency by the grant of responsible government. In the brief space of sixty years the history of this colony exhibits seven different stages of political development.

In the colonies of direct administration the governor is the principal figure; in him governmental power and responsibility are concentrated. On the one hand, he represents the sovereignty of the mother country, on the other, the interests of the colony whose affairs he has in charge. British colonial policy is remarkable especially for the trust it reposes in individuals. The British have shown no hesitancy in intrusting men in prominent positions with great powers, and leaving them free from the annoying régime of petty supervision and espionage which sapped the morale of the Spanish colonial system. Thus there has been reared a line of very efficient administrators, men

who, on account of their experience and their careful attention to the details of their work, are true servants of their commonwealth, but who are also kings by the authority which they wield and the respect which their position commands.

The chief powers of the governor of a British crown colony may be briefly summarized as follows. Where legislative councils exist he has the final voice in the process of lawmaking, through his right of assent or veto. In colonies where there are no such councils he has the power of legislating by his own ordinances. Except in cases where it is specially reserved to the crown, the governor exercises the right of appointment, suspension, and discharge of colonial officials. His power in this respect is, however, in some cases limited by civil service acts. The entire colonial administration is carried on under the control of the governor, the heads of the departments being responsible directly to him. He also controls the movements of the military forces within the colony; his warrant is necessary for the payment of any moneys out of the colonial treasury; and he has the power to remit fines and to pardon offences against the government.

The powers of the governors in the French colonies are based on the important Ordinance of February 9, 1827, modified by the *sénatus-consulte* of 1854. The governor is responsible for the maintenance of law and order within the colony, and with this end in view controls the movements of

the troops, the direct command of which is, however, in the hands of a military officer. By his *arrêté* the governor establishes rules for the guidance of the officials in all the branches of the administration. In the same manner he renders executory the local budget, which is framed by his privy council, and in colonies which have a general council is discussed by this body. He must approve all the accounts, and exercises a general supervision over the finances of the colony. It is his function to promulgate the laws and decrees of the home government which apply to the colony under his administration; and while he has no right to interfere with the administration of justice by the courts, he provides for the execution of their judgments. The governor is the diplomatic representative of his colony, and is often empowered to negotiate commercial or other conventions with neighboring countries.

Under normal conditions, in colonies of direct administration, the governor is assisted by an executive council. The character of this council varies exceedingly according to local conditions. While in some colonies it is merely a consultative conference of the heads of the colonial departments, without any true corporate feeling, and existing only for the purpose of enabling the governor to inform himself upon the work of the administration, in other cases, being composed of officers whose tenure is more permanent than that of the governor himself, it becomes a corporate

entity and a powerful factor in the government. In most colonies a second council is added for the purpose of discussing legislative measures prepared and submitted to it by the governor; and in some few cases the legislative council bears the character of a popular assembly, which has the power to originate legislation, and which at times claims to represent the will of the people as opposed to the authority of the administration.

A body of great importance and influence is the Council of the Dutch Indies. It consists of a vice-president and four members appointed by the crown, and it constitutes the chief repository of the experience, wisdom, and traditions of the Dutch government in the East Indies. It has the power to advise the governor upon all questions of administration, and all general ordinances must be submitted to it. The governor is *prima facie* bound to accept its counsel in these matters, and must, in case of his failure to do so, state his reasons explicitly in a special report sent to the home government. The council may also demand detailed information upon any branch of colonial affairs.

The Germans have as yet created but few colonial councils. The most interesting among them is the council of government established in Kiaochau in 1899. This body, whose functions are purely advisory, is composed of the heads of the various departments, and three representatives of the civil community, one of whom is appointed by the governor, one elected by the non-Chinese trad-

ing firms, and a third chosen by the owners of real property who pay a tax thereon of at least fifty dollars silver a year.

The British crown colonies may be divided into three classes: those entirely without councils, those in which the councils are appointive, and those within which they are partly or entirely elective. The first class, as it includes only a few military and naval stations like Gibraltar and St. Helena, is unimportant in this connection, and need not here detain us. The second class embraces the following more important colonies and dependencies: India, the Straits Settlements, Ceylon, Hongkong, Fiji, Trinidad, the Windward Islands, the Leeward Islands, and all of the West African colonies.

The Indian Empire, while not officially designated a colony, still in fact belongs to the dependencies which are administered directly by agents of the crown. The governor-general of India and the governors of the Indian provinces, representing as they do the imperial authority over subject races, have a position of greater power than that of the ordinary colonial governor. They are assisted in their work of administration by legislative councils, and in the case of the older provinces by executive councils also, which are, however, all appointed, either by the crown or the governor.

The executive council of the governor-general of India is composed, under his presidency, of six members appointed by the crown, who with him

represent the following departments: Foreign Affairs, in charge of the governor-general himself, Home Affairs, Finance, Military Affairs, Public Works, Revenue and Agriculture, and Legislation. The legislative council of the Indian Empire consists, by the provisions of the Indian Councils Act of 1892, of the heads of departments, with the addition of from ten to sixteen members who are appointed by the governor-general. By Order in Council the governor-general has decreed that no more than six of the additional members shall be officials, and that the others will be appointed by himself upon the recommendation of the following bodies or groups: (*a*) the non-official additional members in the legislative councils of Madras, Bombay, Bengal, the Northwest Provinces, Panjab, and Burma, the non-official members of each provincial council having the right of recommending an appointee; (*b*) The Calcutta Chamber of Commerce.

Similarly, the legislative councils of the six Indian provinces enumerated above are composed of the members of the provincial executive council, and of from twelve to twenty additional members, appointed by the governor. Thus the regulations issued by the lieutenant-governor[1] of Bengal, which form a typical instance, provide that of the twenty additional members not more than ten

[1] The chief official of Bengal is given this title because the governor-general of India resides in the same province; the same title is also used in the Northwest Provinces, the Panjab, and Burma.

shall be officials. The others will be appointed by the lieutenant-governor, and seven of them upon the recommendation of the following bodies: (*a*) the Corporation of Calcutta; (*b*) such municipal corporations or groups of corporations as the lieutenant-governor may indicate; (*c*) such district boards or groups of district boards as he may indicate; (*d*) such association or associations of landowners as he may indicate; (*e*) such association or associations of manufacturers, merchants, or tradesmen as he may indicate; (*f*) the Senate of the University of Calcutta. The other seats are filled by the lieutenant-governor in such a manner as shall secure a fair representation to the different classes of the community. In carrying out this decree, the governor has divided the municipalities of Bengal into groups, which nominate in turn each one representative, and in which the individual towns are accorded weight (one to six votes) relative to their income from municipal resources.[1]

The governor of Ceylon is assisted by an executive council composed of the five heads of departments, and by a legislative council consisting of seventeen members, nine of whom are officials and the rest non-official representatives of the different races and classes in the community, appointed by the governor upon the recommendation of certain local bodies. The legislative councils of Hongkong and of the Straits Settlements are similarly

[1] *The Legislative Council of Bengal*, edited by F. S. Wigley, 73–83.

constituted. The six unofficial members of the former are appointed as follows: four by the crown, two of whom must be Chinese, one by the Chamber of Commerce, and one by the justices of the peace. In the latter colony, seven of the nine non-official members are appointed by the crown, and one each by the Chambers of Commerce of Penang and of Singapore. In Fiji and in the West African colonies all members of the councils are nominated by the crown.

In the British West Indies the tendency has recently been toward this form of administration, and away from the older system of elective councils. In Trinidad both the executive and the legislative council are composed of nominated members. The same is true of the Windward and practically also of the Leeward Islands. Eight of the sixteen members of the federal legislative council of the Leeward Islands are elected, being chosen by the unofficial members of the local legislative councils in the several islands composing the confederacy. But as the representative element in the local legislatures of Antigua and Dominica was suppressed in 1898 upon the request of the legislatures themselves, the elective element in the federal council has its origin in appointive legislatures.

In all these colonies which we have just passed in review, the function of the legislative councils is of an advisory nature. They cannot originate legislation, their function being simply to discuss

and act upon such measures as are laid before them by the governor of the colony, in whom resides the ultimate power. However, even though a council does not enjoy final authority, it may acquire under certain circumstances very great weight in the affairs of the colony, especially where it represents the interests of municipal bodies or chambers of commerce. We shall later return to a discussion of this system of making interests rather than numbers the basis of representation, a system which is of increasing importance in the administration of tropical colonies.

Turning now to a brief review of the colonies having councils which are partly or wholly elective, we shall dispose first of the somewhat exceptional case of Cyprus. The High Commissioner of Cyprus is assisted by an executive council of three members, and by a legislative council composed of six officials and of twelve elective members, three of whom are chosen by Mohammedan voters and nine by the non-Mohammedan population. This system is unique in that it combines the principle of popular election with a representation based upon religious differences. There may be found in other colonies a representation of religious groups, but this is arrived at, not by the method of election, but by appointment through the governor.

Several of the West Indian colonies have retained a representative system inherited from their early colonial history. Thus British Guiana still enjoys in substance its representative institutions

of Dutch origin, which were guaranteed by the British when they had conquered the colony. For legislative purposes the governor is assisted by the Court of Policy, composed of seven official and eight elective members. In matters of financial legislation these are reënforced by six additional elective members, together with whom they form the so-called Combined Court. This body alone can levy taxes, but the general regulations of law and of administration originate in the smaller Court of Policy. The electorate of British Guiana is based on a property qualification, and it is rather limited in numbers, as out of a population of 278,000 there are only 2815 registered voters. The colonies of the Bahamas, the Bermudas, and Barbados also retain their old elective Houses of Assembly, which were established shortly after the first beginnings of colonization. The Bermudan House of Assembly is composed of thirty-six elective members, and out of a population of 16,000 there are 1112 electors. In the Bahamas, the House of Assembly consists of twenty-nine elective representatives. In Barbados, the House of Assembly has twenty-four members; the electorate, which rests upon a small property qualification, comprises only 2044 registered voters out of a population of 192,000.

During the administration of the colonial office by Lord Derby, in the years from 1882 to 1885, the home government was strongly inclined to extend the system of representative institutions in

the colonies. To this fact is due the establishment of the elective legislature in Cyprus, which has already been described. Moreover, the island of Mauritius, which had thus far been administered by a governor assisted by appointive councils, was in 1885 given a certain measure of representative government. Out of the twenty-seven members of the legislative council of the governor as it is now constituted, eight are officials, nine are nominated by the governor, and ten elected by a suffrage based upon a moderate property qualification. The registered electors number about 6000 out of a population of 400,000. It is believed that, were the Hindus of Mauritius to become interested in politics, they could, even with the present qualification, make themselves the determining factor in the situation. Much more would this be the case if the clamor for a further reduction of the qualification and for making the assembly completely elective, should be granted by the home government. Mauritius would then virtually become a Hindu colony, and would constitute a very interesting experiment, as nowhere else do Hindus form a commonwealth with elective institutions. Brought to Mauritius as contract laborers, many of them after their term of contract has expired settle in the island permanently as farmers or small tradesmen, and their industry and frugality soon enable them to acquire property.

Like the other islands of the British West Indies, Jamaica originally had an elective assembly.

During the troubles of 1866, however, this assembly voluntarily abdicated its power and requested the home government to establish direct crown administration. After the clouds of that turbulent era had passed away, demands for the restitution of the older régime were made, until finally, in 1883, Lord Derby accorded the colonists the privilege of electing a number of representatives, not to exceed fourteen, to the legislative council.

In British crown colonies in which a popularly elected legislature has been established, the crown no longer enjoys the right of legislating by Orders in Council. This principle was settled by Lord Mansfield in the celebrated case of Campbell *vs.* Hall.[1] The question involved in this case was whether the King, after he had by proclamation established in the colony of Grenada a general assembly, and had empowered the governor, with the consent of the representatives of the people, to make and constitute laws and ordinances, could still continue to legislate by virtue of his royal prerogative. The court in its decision established the following principles: first, when a colony is acquired by conquest or cession, the crown can legislate for it by sole royal prerogative; second, this prerogative of the crown is subordinate to the legislative power of the Imperial Parliament; third, the crown, in its prerogative legislation for the colony, cannot make any change contrary to the fundamental principles of the English law of the

[1] Cowper's Reports, Vol. I.

land; fourth, articles of capitulation and articles of peace on which colonies are surrendered or ceded, are inviolable; fifth, in a colony settled by occupation, a representative assembly must participate in legislation; sixth, when the crown has once granted to a conquered or ceded colony the right of having a representative legislative assembly, it cannot any longer legislate by royal prerogative for such colony. Such a grant of representative institutions is irrevocable by the crown, although the paramount authority of the Imperial Parliament over the colony continues. The importance of this decision lies in the fact that it clearly establishes the respective rights of Parliament, the sovereign, and the colonial legislatures. In settlement colonies no alternative is left but the establishment of a representative legislature. In colonies that are conquered or ceded, it is within the discretion of the crown to legislate directly or to establish a local assembly. When, however, legislative powers have once been granted, they cannot be revoked at pleasure; and unless the crown specifically reserves the right to legislate by Orders in Council within a colony thus privileged, its direct control over legislation has passed away. Such a reservation was made in the case of British Guiana; and in Mauritius and Jamaica, where a limited form of representative government has been introduced, the crown has reserved full power to modify or entirely abolish the system of election.

The political institutions of the French West Indies are the result of two opposite policies, — the Republican policy of absolute centralized assimilation, and the policy of a colonial régime with special laws and privileged local legislatures or general councils, inaugurated by the July Monarchy and taken up again under the Second Empire. It was the policy of the three successive Republics to regard the colonies as integral parts of the national territory, to assimilate their administration to that of a French department, and to allow the colonial population a voice in the national parliament. On the contrary, the Monarchy, as well as the Empire, looked upon the colonies as *pays d'exception*, to be governed by special laws and decrees, hence not entitled to participation in the national legislature; they, however, favored the policy of giving considerable powers, mostly of an administrative nature, to the colonial councils. The products of these two policies constitute the political institutions of the French West Indies since 1870; they have never been harmonized, nor has the one been definitely abandoned for the other; so these colonies enjoy both representation in the national parliament, and the possession of local councils with a great latitude of functions. In reviewing briefly the history of these institutions we shall recognize their somewhat haphazard origin, as well as the grave practical difficulties which are due to the lack of subsequent harmonization.

Before the Revolution, the old French colonies,

Martinique, Guadeloupe, Guiana, and Réunion were administered, much as are the present English crown colonies, by a governor, with the assistance of an executive council and a colonial assembly summoned at irregular intervals. By a royal decree of 1787 the organization of this assembly was regulated and the qualification for suffrage was fixed as the ownership of at least twelve slaves. With the Revolution came representation in the national assemblies; the creole French were at that time especially popular and influential in French society, so their request for representation was readily accorded. Seventeen *cahiers* supported this demand; that of the *Tiers État* of Versailles even went so far as to propose complete assimilation of the colonies. The idea of colonial representation in parliament is nowhere directly suggested by the French pre-Revolutionary publicists, although it is completely in accord with their general system. It remained for the practical American, Benjamin Franklin, and for Adam Smith, to propose in its concrete form this extreme measure of "Latin assimilation." Its adoption by the French nation at this time was undoubtedly due to the influence and enterprise of the creoles residing in France, who relied on the traditional policy first announced by Louis XIII. in his edict of 1642, "Que les descendants des Français habitués ès dites îles seront réputés naturels français, capable de toutes charges et honneurs."[1]

[1] "That the descendants of Frenchmen living in these isles shall be considered as native French, capable of all functions and honors."

By the constitution of 1795, the colonies were absolutely assimilated to the French national territory[1] and treated as departments. Before these provisions could produce any practical results they were abrogated by the Consular Constitution of 1799, which deprived the colonies of national representation and placed them again under a régime of special law. Not until the end of the Monarchy of the Restoration, however, was colonial administration definitely organized. By the ordinance of February 9, 1827, there was established in each colony an appointive general council with purely advisory powers. Under the July Monarchy, by the *Charte Coloniale* of April 24, 1833, this council was made elective, with a very high qualification for suffrage (30,000 fr. movable property, or the annual payment of 300 fr. direct taxes). This local assembly sent two delegates to Paris to act as intermediaries between the colony and the ministry. As the colonies had no deputies or senators, the Council retained the services of members of the Chamber and the Senate, who in return for a handsome fee defended the colonial interests within the national parliament.

The Revolutionary government of 1848 returned to the policy of absolute assimilation; it abrogated the system of special laws and discontinued the general councils; as a compensation the colonies received the right of representation in the national

Art. 6: "*Les Colonies françaises sont parties intégrantes de la République, et sont soumises à la même loi constitutionelle.*"

parliament, under a system of manhood suffrage in which the newly emancipated negroes were included.

In 1852 the system of special legislation was again restored on the ground that the interests and needs of the colonies differed essentially from those of the mother country, and that the hand of authority and the soothing influence of time were necessary to harmonize the social elements distracted by a radical revolution. It was stated that it was not so much the purpose of the government to discard the colonial element in metropolitan legislation, as to free the situation in the colonies from the agitation of political elections.[1] The right of representation in the national parliament was accordingly annulled.[2] The Senate, which had been given the power of organic legislation by the constitution of 1852, decreed by the *sénatus-consulte* of 1854 (May 3) that there should be in the colonies appointive general councils with functions analogous to those of the French departmental assemblies. This measure laid the foundation of the present system of colonial councils. The function of ordinary legislation for the colonies was delegated by the Senate to the executive power, to be exercised by means of administrative decrees, or by orders in council of state. This arrangement is known as the *système des décrets*.

By the very important *sénatus-consulte* of 1866

[1] *Exposé des motifs, Procès-verbaux, Sénat*, 1852, I., 447 *sq.*

[2] *Décret Organique du 2 février, 1852.*

(July 4) the powers of the colonial councils were substantially augmented, and they acquired distinctive attributes not possessed by the departmental assemblies. Thus they received the power to legislate on all matters concerning the management of public property, acquisition thereof by the colony, and grants made out of it; on public works and concessions for their execution; on the system of roads; and finally, most important of all, they were given the right to vote all taxes and contributions, to fix the customs tariff and the tariff of the *octroi de mer*.[1] The general councils remained appointive, one half of their members being named by the governor, the other half by the municipal councils, which were themselves appointed by the head executive. The above attributes of legislation, together with extensive powers of deliberation and advice on matters of the budget and colonial administration, gave the council great influence. Still, it was rather an administrative council than a legislature, and had no share in the ordinary civil or criminal legislation, as the French codes were in force in the colonies. The governments immediately following the Revolution of 1870 did not change these functions of the general councils, but, as the principle of election by manhood suffrage was introduced, they soon became almost independent of central control. The

[1] The *pacte colonial*, or system of navigation laws, had been abolished in 1861. The *octroi de mer* is an import duty levied at a seaport, for municipal purposes.

powers originally granted to an appointive council were left unaltered when that body became an elective assembly. Nor was the national executive deprived of the authority of legislating for the colonies by decree or order in council; this *système des décrets* has become a special grievance of the colonies, since that time. In 1871 colonial representation in the national parliament was re-established, the deputies being elected by universal suffrage.[1]

The system as it has existed since 1870 may therefore be briefly described as follows. The colonies participate in national legislation through the presence of their representatives in the Senate and Chamber of Deputies. General colonial legislation, however, is settled almost entirely by the national executive, and colonial matters come up in the parliament only by way of interpellation or when the budget is being discussed. The local colonial assemblies originate much of the administrative legislation, either by the exercise of their powers enumerated above, or by deliberating upon measures which are given final force of law by *arrêté* of the governor or decree of the head of the state. The civil service in the colonies is recruited chiefly by appointment through the governor; but as he is himself dependent upon the majority in the

[1] Some portions of this chapter have been taken from the writer's article on "French Experience with Representative Government in the West Indies" in the *American Historical Review*, Vol. VI., pp. 475–497.

general council, the latter body exercises great influence in the selection of public officials.

The period of the Third Republic has been marked by the establishment of general councils in almost all of the French colonies which had not already received them in 1854. By decree, in 1871, elective general councils were established in the three Algerian provinces of Algiers, Oran, and Constantine. These councils are composed of elected representatives of the European part of the population, and of six native delegates, who are appointed by the governor-general. A Superior Council of Government, for the whole of Algeria, instituted originally in 1844, discusses the Algerian budget and the projects of legislation which the government has prepared for submission to the French Chambers. It is composed of high officials, nominated by the head of the state, and of representatives of the three general councils, each of which elects six of its members for this purpose. This council, too, has purely consultative functions, but by virtue of representing the French colonists in Algeria, it has been able to exercise great influence upon the course of action pursued by the government.

In the year 1878 a general council was established in French Guiana; it was modelled upon the councils of the Antilles, and has similar powers of legislation and deliberation. It is composed of sixteen members elected by manhood suffrage. The general council of Senegal, established in

1879, is composed of twenty delegates elected by the inhabitants of regularly constituted communes. The council has the right to vote taxes and contributions, with the exception of customs duties and the *octroi de mer*, which are fixed by the home government. In other respects its functions are purely advisory. In the same year, a general council was established in French India which resembles in its powers and attributes that of Guiana. The organization of the electorate in the Indian establishments (Pondichéry, Karikal, Chandernagor, Mahé, and Yanaon) is, however, unique. There are two lists of electors, one composed of Europeans, the other of natives, each of which has the right to elect one-half of the delegates which any establishment sends to the council. Formerly, a third electoral list was provided for, which was composed of natives who had renounced their inherited status and customs, and had placed themselves under French law (*renonçants*); but this list was never of real importance anywhere, and it was practically discontinued by the provisions of a decree issued in 1899.

The colonial council of Cochin China, which was instituted in 1880, claims our special attention. It is composed of sixteen members: six Frenchmen, six Anamites, two members of the privy council of the governor who are appointed by decree, and two representatives of the Chamber of Commerce of Saigon. Although the majority of this council is elective, the official element in Cochin

China has been strong enough to control the elections completely, and the natives of the colony have benefited little by their representation. The native members are elected by a college composed of delegates of the municipalities; and they must, under a law in force since 1898, be able to use the French language. Before 1898 the colonial council controlled the entire financial administration of Cochin China; but in that year a general budget was created for the whole of Indo-China, which is under the control of the governor-general; the colonial council now disposes only of the local income and expenditure of the colony proper.

In 1885 general councils were established in the small colonies of New Caledonia, of St. Pierre and Miquelon, and of the French islands in Oceanica. In the last two cases the council was composed of representatives from the various islands; on account of the distance of some of these from the seat of government, it became customary to elect as general councillors members of the municipal council of Papeite, and of the town of St. Pierre respectively. In the latter case the general council was abolished in 1897. In Oceanica the more distant islands were given a representation of one member each on the governor's privy council, while the jurisdiction of the general council was confined to the Tahiti group. All of these general councils are elective, but their functions are purely deliberative.

It now remains for us briefly to state the present

extent of the representation of the French colonies in the national parliament, the principle and historic origin of which has already been discussed. The islands of Martinique, Guadeloupe, and Réunion are each entitled to two deputies and one senator. The establishments in India send one deputy and a senator, and the colonies of Cochin China, Senegal, and Guiana are represented each by one member of the Chamber of Deputies. The three provinces or departments of Algeria are represented by one senator and two deputies each; these representatives are elected by the French colonists in Algeria. The colonial senators are chosen by an electoral college, composed of the deputies of the respective colonies, of representatives of the municipalities, and of the members of the general council. The deputies are elected by universal manhood suffrage, except in Cochin China and Algeria, where only French settlers vote in this election. The laws allowing deputies to the colonies were all passed between 1870 and 1884; since then the principle has not received any further extension in practice.

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CHAPTER XI

EXPERIENCE WITH REPRESENTATIVE INSTITUTIONS IN COLONIES OF DIRECT ADMINISTRATION

After having in the last chapter briefly outlined the existing representative institutions in colonies which do not have "responsible government," we may now undertake a more general discussion of the merits of this system as they appear from actual experience. The colonies in question are nearly all in the tropics; we are, therefore, confronted with the presence of at least two, and in some cases more, races or populations — the natives and the Europeans. As long as the representative principle is applied only to the latter, the machinery of government may work smoothly enough and no internal difficulties may arise in its operation; but the interests of the more numerous part of the population, the natives, are unrepresented, and are, as a matter of fact, left to the mercy of a class not disposed to deal with the claims of the natives in the most scrupulous manner — the whites who have come to the colony to seek wealth and make their fortune as quickly as possible. It is here that the great difficulty lies, in the problem how to devise a

system that, while not disregarding the just claims of the natives, will, on the other hand, avoid the inefficiency and general hostility to industrial improvement which characterize a purely native régime.

From the experience of the French Antilles we can draw some general conclusions as to the working of the system of representation there in use. Considering, first, representation in the national parliament, we find that it has given the deputies themselves great personal influence. Since the ministries are usually in need of every vote that can be obtained, and since the colonial deputies are more independent in national affairs than are those who have French constituencies, their support is always courted. The very adoption of the republican form of government in 1875 would have failed without the votes of the colonial deputies; the Wallon amendment, by which the title of president was bestowed upon MacMahon, was passed by a majority of only one vote. In 1882, just when the affairs of the French nation were in a serious crisis, M. Blancsubé, the deputy for Cochin China, was the leader in bringing about the overthrow of the Freycinet government. The colonial deputies and senators are, by virtue of their office, members of the *Conseil Supérieur des Colonies*, through which they are in a position strongly to influence public opinion. They also take a leading part in all congresses where colonial questions are discussed. The important In-

ternational Congress of 1889 and the French National Congress of 1890 in nearly all their resolutions followed the lead of Senator Isaac of Guadeloupe. He there not only advocated the complete assimilation of the older colonies to the metropolitan institutions, and the abolishment of the "régime of decrees," but he also carried a resolution favoring a like policy for all colonial dependencies of France. To the influence of the colonial deputies more than to any other cause may be attributed the persistence of the assimilation policy in French colonization. By the very act of vindicating their privileges of representation they favor the extension of these principles to the newer colonies; and as they are not only specially interested, but are also considered specially competent in colonial affairs, their influence has been preponderant. They were not able, however, to prevent the ultimate establishment of a separate ministry of colonies, which they had long resisted.[1] As this ministry is naturally more interested in the newly acquired vast domains of France in Africa and in Asia than in the older colonies, the influence of the colonial representatives has been diminished in consequence of its creation.

No direct beneficial influence of the system of parliamentary representation on the colonies themselves can be traced, except in the matter of obtaining occasional favors of a fiscal nature, such as

[1] See p. 280.

subventions and exemptions. No thoroughgoing reforms in colonial affairs have been suggested or carried out by the colonial representatives. This is due, of course, partly to the fact that the Chambers do not as a general rule interfere with colonial affairs, but leave their management to the executive. But the representatives are generally inclined to view the affairs of their constituencies from a narrow, partisan point of view. A deputy of Guadeloupe has described the situation as follows: "The greatest part of their activity is given, no matter what repugnance they may feel thereto, to the task of cultivating the good will of the minister toward their friends among the colonial functionaries. They must constantly be on their guard against adverse influence, and spend their time soliciting support in the bureaus. The colonial elections have become a matter of mere personal antagonism."[1]

It is interesting to note that most of the representatives of the Antilles and Guiana in the Chambers have of late usually voted with the Socialist party. A creole leader, M. Hurard, expresses the inclination of the insular population to Socialism in characteristic language; he says, "We creoles follow France because we have absorbed the French conception, because we are of past servitude, and hence

[1] Letter in *L'Indépendant de la Guadeloupe*, February 16, 1899. Merivale, in his *Lectures on Colonization* (1841), expresses the belief that colonial representatives would be mere party agents in Parliament.

by atavism predisposed to integral enslavement in collectivism, because we poor islanders can have no ambitions beyond being functionaries." The present governor has gone so far as to declare that in Martinique the régime of large properties is incompatible with the actual social state. In order to maintain and protect it, he considers it indispensable that the laws which govern British dependencies be applied to the French colonies. The French Socialists look upon their colonial associates as an important accession to their force and are ever ready to defend the colored democracy. "For us Socialists the negro workmen of Martinique are brothers in humanity, having the same rights and aspirations. They have their place in our hearts." They count upon the colonial deputies in their fights against the reactionary tendencies, and the colonists in turn are always pointing to their services in the establishment and maintenance of republican institutions in the mother country, as a basis of their claim to have the principle of colonial representation preserved and extended.

As we turn from representation in the national parliament to the local colonial council, we find that it is animated by the same political desires as the deputies and senators in Paris, and that its chief concern is the control of the patronage. The uppermost consideration in the mind of a councillor is always the gaining of votes through local influence, or the punishment or reward of the administrative departments according to the attitude they

have taken toward his election.[1] The fiscal policy of the councils is governed by the same considerations. Expenses for public improvements of an industrial nature, such as harbors and roads, are carefully kept down. On the other hand, since the influence of the general council grows with the number of officials dependent on it, the expenditure for salaries is constantly increasing. Thus, Martinique has 1400 functionaries out of 14,000 men who could possibly hold civil service positions.[2] The bane of functionarism is fixed upon the colonies, and political life has consequently become an acrid struggle for personal influence and patronage. By the side of this expenditure for the civil service, large sums are voted for public education and scholarships; the latter fulfil the double purpose of advancing learning and providing for the protégés of the politicians. Large grants and concessions are often made out of the public property; thus, the council of Guiana granted 200,000 hectares of valuable land to one individual, and at the same time proposed to divide the colonial reserve fund among the communes.[3]

The experience of France in the other colonies where representative government has to some extent been tried has been discouraging to even a far greater extent. The composition of the elec-

[1] Debate in the general council of Guiana, cited in *Annales des sciences politiques*, XV. 256.

[2] *Les Colonies*, September 15, 1900. Also Mr. Austin Lee's *Report on French Colonies*, published by the British Foreign Office, 1900.

[3] *Annales des sciences politiques*, XV. 259.

tive colonial council in Cochin China has already been described. It is generally known that, for a time, when the council still had great influence, its members were among the heaviest government contractors, and that one of its presidents held contracts with the administration to the amount of 2,000,000 francs. A decree of 1888 prohibited any councillor from becoming a government contractor, and the powers of the council itself were subsequently curtailed to such an extent that it is no longer of great influence. But its history stands as a warning against intrusting a small class of colonists from the mother country with political power over a large native population. Thus, while the powers of this council were still undiminished, the taxes that were gathered from the entire colony were lavishly spent upon the adornment and improvement of Saigon, the French town of residence; appropriations made for a botanical garden were diverted and used for the city parks; and road building in the interior of the colony remained undone in order that splendid drives around the capital might be constructed. Officials who showed an inclination to interpose objections to this policy of the council either had their salaries raised to silence them, or, if too intractable, soon found that their recall had been successfully requested of the home authorities. Meanwhile the resources of the colony lay without development, and the native population lived in increasing poverty.

The complicated system of elections in vogue in French India renders electoral manipulations there exceedingly easy and frequent. As a matter of fact, the result of the elections is usually known in advance, and the ballot boxes are often filled by the officials before the election begins. There are in French India 500 European to 76,000 native electors, but the latter usually do not even take the trouble to vote, as they well know that their votes are powerless to influence the course of the election. In Senegal the electoral body comprises about 700 whites, 400 mulattoes, and 8000 blacks. The latter are controlled entirely by their chiefs, with whom arrangements concerning the purchase of their votes in large blocks can readily be made. It is apparent from this that nowhere outside of the Antilles has representation of the native element resulted in more than an empty form, which lends itself very readily to fraudulent uses.

In the three Algerian provincial councils the native element is represented only by a few appointed delegates, who, for practical purposes, have absolutely no power. The representatives of the French colonists may be said virtually to compose these councils. Although they have been neither so influential nor so corrupt as the colonial council of Cochin China, they, too, may fairly be cited in support of the contention that it is unwise to give sole political power to the white colonists in matters in which the native population is equally interested; for they have never given proof of the ability of

viewing the colonial situation apart from the narrow interests of their class. On the contrary, the manner in which the Algerian councils have used their political influence for the exclusive and selfish purpose of benefiting the French colonists at the expense of the natives, has done much to perpetuate the hatred between the races and to bring the French government into disrepute.

The provincial councils of Algeria, while they represent only the French element, nevertheless make up the entire budget of the province or department, with the result that the taxes, though collected chiefly from the natives, are spent almost entirely for the benefit of the colonists. Thus, in the department of Constantine, which is the most radical in the anti-native attitude of its colonists, some of the electoral districts have the following ratio between electors and natives: Biskra, 251 electors and 116,265 natives; Akbow, 287 electors and 219,865 natives. In this department the taxes collected within the military territory, which is inhabited almost exclusively by natives, between 1881 and 1896 averaged 600,000 francs annually. However, during this whole period, no money was spent on internal improvements in this part of the province; it was all put into the building and maintenance of roads and other public works within the civil territory, where the French colonists had settled. In the province of Oran, in 1894, the receipts from the "Arab impost" amounted to 449,000 francs, while only 28,000 francs were

expended in the military territory of the department.

The provincial councils are also to a large extent responsible for the continued enforcement of the *code de l'indigènat*,[1] which is demanded by the French settlers as essential to their security.

The constitution of the municipal councils in Algeria will be discussed in Chapter XVII., but we may add here that, as the natives have practically no influence in the communal government, not being allowed to elect more than one-fourth of the municipal councillors, there has always been a great alacrity among the colonists to confer the rights of municipal suffrage on constantly increasing areas, which are thus made subject to the taxing power of the commune, and may be forced to render tribute for the advantage of the French settlers. In general it may be said that the Algerian representative bodies have always been ready to spend for the exclusive interests of the French colonists the taxes collected from the native population.

The Superior Council of Algeria has, during the past few decades, been of less importance than the provincial councils-general. When, in 1881, the *système des rattachements* was instituted, the authority of the central government of Algeria suffered an almost complete eclipse. This system involves the direct dependence of each branch of the public service in Algeria upon the respective

[1] See page 353.

ministry in France, and not upon a central colonial administration at Algiers. The system was adopted at the urgent request of the French colonists, who desired to be treated as if they had not left the mother country, and whose interest it was to have the provinces of Algeria considered as departments of France. Consequently, for many years, the functions of the governor-general and of his Superior Council were rather ornamental than useful; the high officials at Algiers were often not even informed concerning the most important Algerian political affairs, which were transacted directly between the *départements* and the deputies and ministries at Paris.

In 1896 this whole system was subjected to a critical investigation by the Chambers. The governor-general, M. Cambon, and several deputies attacked the régime earnestly, and showed its utter inadequateness to the difficult situation in Algeria, especially to the solution of the native question. As a result there has been a gradual departure from the time-honored French policy of assimilation. By a decree of December 31, 1896, the governor-general was given more substantial powers; in 1897 the Superior Council also received a small accession of authority; and finally, in 1901, the great change was accomplished of giving Algeria a separate budget and thus restoring her fiscal personality. This budget is prepared by the governor-general with the assistance of the Superior Council, and the home government simply

reserves the right to veto its provisions. Thus the Superior Council is certain to become a body of considerable authority and influence in Algerian affairs; the hope is entertained that it will inaugurate a more rational and liberal policy toward the natives, than that inspired by the selfish interests of the minority intrenched in the provincial councils-general.

Resting entirely upon the French electorate in Algeria, the representation in the Senate and the Chamber of Deputies has also been used almost exclusively for the purpose of advancing the special interests of the French colonists; it has been merely the mouthpiece of the provincial councils, and has supported their policy of assimilation, *rattachements*, taxing power over the natives, and exceptional criminal laws. The deputies and senators have also acted as agents through whom a steady stream of French officials — in many cases men who had been failures at home — have found their way into the Algerian administration. It has been most unfortunate for the colony that it should have been treated as if it were a part of France and inhabited by Frenchmen, with as complete as possible an ignoring of the rights and interests of the native population. Nine senators and deputies can exercise a great pressure upon a French ministry, which usually has no solid majorities to back it; and as these Algerian representatives can be very readily reconciled by concessions to the French element in Algeria, without embar-

rassing consequences in France itself, or the assumption of an inconsistent position on the part of the ministry, — for nothing appeals more to the ordinary Frenchman than the idea of assimilation in the colonies, — it is not to be wondered at that the home government has always viewed Algerian affairs through the eyes of the Algerian senators and deputies.

Although the government of Tunis is technically a continuation of the native institutions of the time preceding the French occupation, and as such does not comprise a representative council, there have been established a number of consultative bodies, whose advice the ministry asks in certain cases. These bodies, however, represent the interests of only the French community in Tunis, and have no part in the administration of native affairs. The most important among them is the *Conference consultative*, established in 1890; it is composed of representatives of the various chambers of commerce and of agriculture, of seven members elected by the non-industrial part of the French population (*Troisième collége*), of the French vice-presidents of the communes, and of French heads of departments in the Tunisian administration. The conference meets twice annually, and must be consulted before any tax or impost which will affect the French colonists is decided upon; its advice may also be asked in matters affecting the industrial, commercial, and agricultural interests of the settlers.

In addition to this council, the following bodies are regularly asked to contribute their advice upon measures concerning their particular interests: the Chamber of Commerce and the Chamber of Agriculture of Tunis, the mixed chambers of commerce and of agriculture of Susa and of Sfax, and the *Représentation du troisième collége* — a body representing that part of the population which is not included in the electoral lists of the various chambers. Membership and electoral privileges in these various bodies are fixed and defined by law, and they are made a recognized part of the administration, although they have only consultative authority.

The *Troisième collége* represents a tendency which, if successful, would assimilate conditions in Tunis to those in Algeria, where the control of the government is wholly in the hands of French settlers. This "third college" represents, not interests, but numbers, and for this reason the claim is made for it by its members that it is the true sovereign of Tunis. When it is considered that the actual voters in the college number less than two thousand, this claim to rule a state of one and a half million people, and to dispose of the taxes contributed by them, seems preposterous. But the college has the principles of the *droits de l'homme* on its side, modified of course to embrace only *des hommes raisonnables*, *i.e.* Frenchmen. Should this element, in which "carpet-baggers" abound, prevail in this matter, France would probably soon

cease to look upon Tunis as her model dependency.

Of late the current of French opinion has turned very strongly against a further extension of the principle of popular elections as applied to colonies; and there are many indications of a changed attitude of the public mind on the broader principles of colonial politics. Formerly the ideal of assimilation was proclaimed as the national policy almost without a dissenting voice. In the *Exposé des motifs du sénatus-consulte de 1854*, we find this statement, "L'assimilation progressive des colonies à la mère-patrie est dans la nature des choses, dans le vœu légitime des populations, et peut-être aussi dans les devoirs du gouvernement métropolitain."[1] The commission of forty-five members nominated by the National Assembly at Bordeaux in 1871 voted, "Prenons pour devise: Assimilation politique des colonies à la mère-patrie."[2] During the two decades that followed, all the important organic laws of France were applied also to the colonies. The colonial commission appointed by Admiral Pothuau in 1878, and that named by Minister Duclerc in 1882, both pronounced in favor of assimilation, as did also the

[1] "The progressive assimilation of the colonies to the mother country rests on the nature of things, on the legitimate desire of the populations, and perhaps, also, on the duties of the metropolitan government."

[2] March 28, 1871. Cited in Schölcher, *Polémique Coloniale*, I. 16. "Let us take for our motto: Political assimilation of the colonies to the mother country."

Colonial Congresses of 1889 and 1890. But within the last decade a new tendency has made itself felt. As early as 1888, Minister Dislère's scheme for further assimilation of the old colonies by erecting them into departments was defeated in the parliament. The troubles in the Antilles, as well as the disappointment which the French attempts at legal assimilation suffered in Anam, have led many politicians to question the wisdom of the traditional policy. Moreover, the experience of the French with Tunis, where they have used the system of a protectorate without assimilation, has been so much more satisfactory than in Algeria or Indo-China, that the lesson has impressed itself strongly upon the minds of statesmen and publicists. In 1898 M. D'Estournelles de Constant introduced a bill for the suppression of the parliamentary representation of Senegal, French India, and Cochin China. He believes that the system is so firmly fixed in the Antilles that, for sentimental reasons, it may be allowed to continue there, but he strenuously opposes the extension of the principle to the other colonies.[1] M. Doumer, governor-general of Indo-China, in his report to the Minister of Colonies in 1900, discourages the idea of legislative and social assimilation.[2] M. Paul Leroy-Beaulieu, too, believes in administrative and financial decentralization, and considers self-govern-

[1] D'Estournelles de Constant, *Contre la Représentation Coloniale*, in *La Revue de Paris*, January 1, 1899.

[2] Cited in *U. S. Consular Reports*, December, 1900, p. 496.

ment and universal suffrage in the colonies an "absurd institution."[1]

It is more and more coming to be believed that for tropical colonies an experienced administration is the main desideratum, and that the introduction of European representative institutions, with the unrest of party politics, is harmful to the welfare and natural development of native societies in the colonies. In the councils which have more recently been established in French dependencies, for instance, in Tunis, Madagascar, and Indo-China, the principle of representation of interests rather than representation of numbers has, therefore, been applied.

In reviewing English experience with colonial government, we encounter a very striking example of the working of representative institutions, when combined with an executive responsible only to the home authorities, in the history of Canada between the years 1791 and 1841. In the former year two provincial governments, that of Lower Canada, or Quebec, and that of Upper Canada, were established. The Province of Quebec was occupied almost entirely by the descendants of French colonists, while English settlers held Upper Canada, or Ontario. In both of these colonies there was created an elective legislative assembly, but the executive officers were appointed by the governor and were responsible only to him.

In Quebec, where the assembly represented

[1] *L'Économiste français*, January 27, 1900.

the French population, while the governors represented the English minority and the British government, friction was inevitable, and it soon became incessant. Lord Durham, in his celebrated report on Canada, gives an account of the continued struggles between the two races. "Thus two peoples, of different origin and hostile characters, were brought into juxtaposition under common government but under different institutions." The commercial and industrial success of the British minority soon became galling to their French fellow-citizens, who saw in it the danger of being superseded in the management of the economic resources within the colony. Much of the legislation that was attempted by the assembly was therefore reactionary and opposed to the development of industrial interests. "Thus it came to pass that the English inhabitants came to regard the policy of the assembly as a plan for preventing further immigration to the province, of stopping the growth of English wealth, and of rendering precarious the English property already invested or acquired in Lower Canada." At first the assembly had but little power, as the government derived its income from sources other than direct taxation. But when, in course of time, the administration was forced to appeal to the assembly for appropriations, the latter began to feel its power and to resent the pursuance by the government of an "English" policy. The friction between the legislature and governor became thus more and

more acute, and the assembly spent its energies in constantly warring with the executive for the purpose of obtaining the powers inherent in a representative body by the very nature of representative government. The French majority was finally wearied by its unsuccessful efforts to make its influence felt, and the result was an appeal to force, the Rebellion of 1837, which was, however, soon repressed by the British government.

In Upper Canada, although no such racial antipathies existed there, the inherent incompatibility of a representative assembly with an irresponsible executive led to similar difficulties between these two departments. A ring of influential politicians, designated as the "Family Compact," had obtained control of the executive council, and for a long time successfully opposed and blocked the policy of the majority in the legislative assembly. In this case, too, an armed revolt was the outcome of the political friction thus engendered.

When, in 1838, Lord Durham came to Canada to investigate the situation, it fell to his duty to make suggestions with respect to a reform of the government in both colonies. In his report he proposed the union of the two provinces under one government, and the institution of a responsible executive. The first part of his recommendation was carried into effect in 1841, but it was several years before, under the tactful régime of Lord Elgin, the principle of a responsible ministry was completely brought into operation.

While the difficulties were not so acute in the other British colonies that have now become self-governing, similar conditions existed in all of them, and the permanent maintenance of a representative legislature side by side with an irresponsible executive would have been impossible. The independence of the executive gave the assemblies themselves the feeling of irresponsibility. Thus, in Natal, it was in former times quite common for the elective members of the legislature to make entirely impracticable and dangerous suggestions to the executive concerning the administration of native affairs. Now that the legislature and the executive have a mutual responsibility, the former has become much more inclined to treat the natives with justice and to maintain friendly relations with them; the policy of restoring certain native rulers to power, which formerly would have been bitterly opposed, is at present favored by the legislature itself.

It is of much importance in this connection to consider carefully the recent experience of Great Britain with the island of Jamaica. Although the English have tried representative institutions in the tropical colonies, they have never adopted manhood suffrage there. The measures by which, under Lord Derby's administration of the Colonial Office, representative institutions were restored to Jamaica, and introduced into Mauritius, restricted the electorate by a high property qualification. In Jamaica, Lord Derby accorded to the elective

members of the colonial council the control over the finances of the island. We cannot here trace the history of the last twenty years, but the most recent developments are of special interest. On account of financial difficulties into which the colony had fallen, a royal commission was appointed to investigate the situation and make suggestions. The outcome was the report by Sir David Barbour[1] in which he criticises the Jamaican financial management and especially the habit of borrowing for the construction of public works not directly productive. He also records "a serious defect in system in so far as regards the relations between the Colonial Office, the governor of the colony, and the elected members," which he considers "inseparable from any attempt to combine in a working compromise the conflicting systems of crown government and representative government." He believes that the constitution of Jamaica has aggravated the present financial difficulties, that it leads to much friction and loss of time, and produces no satisfactory results. The colonial legislature is also criticised for refusing to vote the salary of a necessary official, and because the unofficial members pressed for an increase in the educational credit. In his letter of instruction[2] to the governor, Mr. Chamberlain takes up these objections and enforces them from his own experience,

[1] *Parliamentary Blue Books*, C. — 9412, July, 1899.

[2] August 22, 1899, *Parliamentary Blue Books*, Cd. 125, April, 1900, p. 6.

as when he says that he favors retrenchment in the expenditure for education, which has not, he thinks, produced results commensurate with the outlay. He then instructs the governor to appoint the full number of official members, and to retain them so as to place the elected members in a permanent minority in the council. He bases his action on the principle that "where financial assistance is given a colony by the imperial government, the latter must have control over the finances." Many among the Jamaicans vehemently protest against this suppression of the powers of their representatives. The mayor and council of Kingston, in a petition to the Queen, submitted that "to reduce the educational vote will work a vast amount of harm for which no prosperity in other directions can compensate."[1] But as financial and industrial relations are uppermost in the mind of the Secretary for the Colonies, it is very unlikely that he will modify his decision. He has thereby clearly entered upon the policy of doing away with representative institutions in the tropics. And, in general, English statesmen have at present little but criticism for the policy of Lord Derby, whose Liberalism they consider decidedly unpractical.[2]

The result of the experience which we have been

[1] *Parliamentary Blue Books*, 1900, Cd. 125, p. 32.

[2] The remaining part of this chapter is taken, with the consent of the editor, from the writer's article on "Representation and Colonial Government," in *The Forum* for June, 1902.

reviewing points to the conclusion that it is a difficult matter to adapt representative institutions to colonies in which the white element is small, or to which the mother country is not ready to grant practical autonomy with all that this implies. As Sir George Cornewall Lewis says: "If a dominant country grants to a dependency popular institutions and professes to allow it to exercise self-government, without being prepared to treat it as virtually independent, the dominant country by such conduct mocks its dependency with the semblance of political institutions without the reality. It is no genuine concession to grant a dependency the names and forms and machinery of popular institutions, unless the dominant country will permit these institutions to bear the meaning which they possess in an independent community; nor do such apparent concessions produce any benefit to the dependency, but, on the contrary, they sow the seeds of political dissensions."[1]

In discussing the political conditions existing in tropical colonies, we have to consider three elements: the government, the white settlers, and the native population. Where the administration of the colony is responsible only to the home government and is not fettered by the exigencies of local politics, it may act on its own resources as an impartial arbiter between the various classes of the population. It will listen to their suggestions

[1] *Government of Dependencies*, 307 (ed. 1891).

and complaints, and take the advice of representative men from the various interests and classes. In this manner the natives may be successfully protected against the exploiting ventures of the colonists from abroad, while the latter, in turn, are given every reasonable safeguard and encouragement in their commercial and industrial undertakings.

When, however, an elective legislature is established in such a colony, it will represent either the white minority or the native masses. If the property qualification is high, the natives will be almost entirely unrepresented, and experience has shown that their interests cannot safely be intrusted to a legislature elected by the European minority. In cases, on the other hand, where the electorate is based upon a low qualification, or upon manhood suffrage, — a system which has been tried only in the smaller French colonies, — the industrial and commercial development of the colony is endangered by unfavorable legislative activity. Thus, a council representing the minority in a tropical colony will vote for the introduction of coolie labor, and will pass strict regulations by which the natives can be compelled to engage in continuous labor; it will be favorable to a régime of large estates and extensive concessions, and will discourage the increase of small land holdings, which tend to make the laborers too independent; it will prefer to lay taxes on the necessities of the people rather than on land, business, and industry.

A popularly elected legislature, on the other hand, will favor the parcelling of large estates, the taxation of production, short hours of work, and arbitration in labor disputes; and it will spend money lavishly on salaries and education, which the other element would prefer to put into internal improvements of an industrial nature.

But in order to get a clearer view of the merits of the question, we shall have to go a little more into detail. We may state, as an axiomatic premise, that in settlement colonies institutions similar to those of the mother country, especially in the matter of representation, are not only appropriate, but will be imperatively demanded by the settlers. In mixed colonies, where a considerable settlement of Europeans exists side by side with a large native population, the tendency will be for the Europeans to exclude the natives from a participation in representative institutions, and to demand complete authority over the whole population. This is the case in Algeria, and also to a certain extent in Natal, where an act passed in 1896 disqualifies for the franchise all persons, not of European origin, who are natives, or descendants in the male line of natives, of countries which have hitherto not possessed representative institutions. In colonies of this class, the problem of the relations of Europeans and natives is most difficult of solution, and most apt to produce bitter animosities. We have already seen, in the case of Algeria, how the very policy of extending free institutions may be made

an additional means for reducing the natives to dependence.

When we consider pure exploitation colonies in the tropics, it is difficult at first sight to understand why there should be in their case any thought of the introduction of representative institutions; it is only by a feat of political abstraction from all reality that one could think of applying in these regions a régime which developed, and now has its being, under conditions so utterly different. There are several reasons, however, why in these colonies elective councils are demanded. In the first place, the white colonists are usually dissatisfied to be under a régime which allows them no voice in the government, especially when they are asked to shoulder a burden of taxation. Thus, the business men of Hongkong have repeatedly made strenuous objection to the system of crown administration, and have asked for more representation on the council; the whites of Jamaica feel the virtual suppression of representative government in their island very keenly; and a resident of Trinidad speaks of the "excruciating pangs of the heartless system of crown colony," and reminds us that "to-day taxation without representation is a gross crime."

Moreover, the population belonging to other than European races will also often demand representation. This is the case especially in such colonies as are peopled by a race that has lost its original native institutions, either because, as in

Jamaica, it is composed of descendants of slaves who were brought hither from all parts of Africa, or, as in the Philippine Islands, because the former civilization, with its social and political institutions, has been destroyed by the persistent attempt on the part of the government to assimilate the native population to European standards. Having no native institutions to uphold, such populations naturally demand those which to the European constitute a birthright and a fundamental requirement of political life.

Finally, though the native populations which have retained their own civilization and social régime do not of their own accord desire privileges of suffrage and representation on the European model, yet these institutions are demanded for them, either by a mistaken philanthropy, or by such among the natives as have given up their native ideas to take on a varnish of western learning and civilization. The Egyptian popular assembly and the native representation on municipal councils in India were pressed upon societies which did not spontaneously demand these institutions. It is true the National Congress of India has always advocated the policy of representative government; but this convention, which meets annually to discuss Indian affairs and to draw up suggestions to the government, is composed very largely of Europeanized *babus*, and is not truly representative of Indian society. The Mohammedans withdrew from the congress when the policy

of representative institutions was made part of its programme; and at a meeting held at Lucknow in 1901, Mohammedan leaders passed a resolution to form a new organization, and to "hold aloof from that body of persons, natives from every part of India, which has been known for many years past as the National Congress." Conditions in India are especially unfavorable for the introduction of representative institutions, on account of the fact that, in addition to the natural disinclination of the great body of native society to use such a system, there exist strong actual and potential animosities of race, caste, and religion which would immediately be fanned into a destructive flame were party politics to be introduced. As a matter of fact, French critics already tax the British with the desire to sow dragons' teeth, and by introducing such institutions as representation, the press, and the jury, in a most Machiavellian way to pit the great Indian factions against each other, in order to benefit by the policy of "*divide et impera*."

It is at times most distressing to any one who feels a strong sympathy with the natives and a degree of admiration for their social life, in a discussion of this matter to seem to hold an opinion adverse to the desire for progress and for political rights among the natives of such regions as India and Africa. But it is impossible to avoid the conclusion that what to some societies is the breath of life becomes to others a deadly poison; and that a society in which the individual has not yet

developed and left the bonds of clan, caste, or family, would have its morale utterly destroyed and be reduced to calamitous confusion by the introduction of western individualistic institutions. But not only would the premature introduction of such a system injure social life and even destroy its foundations; it would, moreover, lead to manifold abuses, manipulations, and suppressions of truth and right in its application. For wherever institutions are given to a population which is not by historic evolution prepared to receive them, they cannot be used properly, but will enable jobbers and shifters to ply their arts to the detriment of the commonwealth. And so, either the unscrupulous will be given an opportunity, or the charter of free institutions must be rendered a dead letter by ignoring the voice of the representative councils, — which is no less demoralizing.

The elective and representative principle may with greater safety be applied to small areas, such as municipalities or rural communes.[1] And as a matter of fact, since we know that the political evolution of western society has proceeded from a clan and caste society to national life through the city-state of classic Greece and Rome and of the Middle Ages, we may say that before free communal government has first been completely and successfully established among the races of low economic and political organization, the attempt to construct a national system of representative

[1] See Chapter XVII.

government for them upon the principles of manhood suffrage must be considered an undertaking akin to folly.

The possibility of solving the difficulty by the use of a modified system of representation is suggested by some recent experiments of basing the representation, not upon numerical aggregates, but upon certain organized interests or social groups. The method employed is either to appoint to the governor's council representative men from the various interests, or to allow certain groups, associations, or bodies to elect their representative. Of course, a true and full development of the system would involve such election as well as the principle that the councils thus elected should have legislative power, and should not be merely advisory, as they now are. The system, as has already been shown, is in use in India, Hongkong, the Straits Settlements, Tunis, and Kiao-chau; but in all these cases the official element is still very strong in the councils. How the system would work if fully developed must at present be matter of conjecture, but it certainly seems worthy of a more extended trial.

The full bearing of this distinction between *representation of interests* and *representation of numbers* reaches much deeper and farther than colonial politics. Throughout the world there has arisen some questioning as to whether the inorganic method of numerical representation which we have inherited from the individualistic rationalism of a

hundred years ago is really a safe and efficient institution. Into the merits of this great question we cannot here enter, but it stands to reason that, in a society where the individual has not yet developed into independence, but is still bound up in various subsidiary social organizations, representation could effectually rest only on these latter, or at least only upon groups, membership in which is a more real matter to the native than participation in the ideal unity of national life. Thus the Ceylonese representation is based upon races, that in India upon municipal bodies and commercial interests, that in Tunis, where in fact there is no French state, but only French interests, upon the latter.

Whether this basis could be utilized not only for an advisory body, but for a virtually sovereign legislature, the future alone can show; but there is an inclination to recognize the complexity of social facts by a greater complexity of political institutions. The councils of the Indian governors could certainly by gradual evolution acquire more and more original power and authority. Their constitution, indeed, does not at present mirror the full complexity of Indian society, and it would be a most difficult matter to construct a system which would give to each interest its proper weight. But it is not needful to construct; to assist and foster gradual development is the function of the colonial as well as the national statesman. There is no doubt that the system, in so far as it

has been applied, has been successful, and has constituted a valuable element among colonial institutions. Through it the government has been enabled, without embarrassing the course of public administration, to get at the opinions and feelings of the various classes of the population, and to formulate a policy based upon the adjustment and furtherance of actual interests, rather than upon a mere theory of general welfare.

Among the alternatives to the use of representation and election, the crown colony system naturally first suggests itself. In its ideal form there is much to recommend it. A governor, powerful and well enough paid to be independent of any faction, assisted by a council of representative men, — officials and others, — administers the affairs of the colony in a straightforward, businesslike manner, and holds the balance between conflicting interests and hostile races. But the trouble is that the system rarely exists in this ideal form, and that in practice the crown colony is disliked, not only by the European colonists and traders, but also by the natives themselves; and, moreover, that, on account of its expensiveness and various general defects, it is not satisfactory to the government and the people of the mother country. The objections of the European colonists and traders to the crown colony have already been indicated. It is true that, when the colonists have to choose between it and the system of universal suffrage which would put power in the hands of the natives,

they prefer the crown colony, not as a desideratum, but merely as an escape from a worse evil. The natives are dissatisfied with the system, either because it denies them coöperation in government, or for the more important reason that it often interferes in an unwarranted manner with their local customs and institutions.

This latter may be set down as one of the most serious failings of the system. The administration of a crown colony is prone to trust too much to the power of ordinances and regulations, and to give too little heed to the deeply ingrained customs and characteristics of native populations. It is apt to forget that the blessings of civilization cannot be bestowed by enactment, but that the efforts of a government to this end must be confined to affording an opportunity and an example. Moreover, the crown colony system is an expensive one, its methods are intricate, and it requires many officials and clerks. It also forces the mother country to assume direct responsibility for the financial condition of a dependency; for a colony, like an individual, can be held responsible only when it is a free agent. Conversely, when a colony cannot maintain its financial independence, it also forfeits its political rights, as in the case of some of the British West Indies which have recently lost or given up their elective institutions.

The direct government of an alien race, spread over a wide territory, is a matter beset with such difficulties that even the strongest and richest may

well hesitate to undertake it. If the regulations of government are to be enforced by European officials, the cost of the system will be enormous; if left to native magistrates and police, the extortion and cruelty will become unendurable, for, though native law may be well administered through natives, it is a far different matter to use them for the purpose of enforcing European regulations. The best among their leaders will hold aloof; and often only the riffraff will enter the European service, as is shown in the case of the official interpreters of Cochin China and the native police of Africa.

A most distressing instance of misjudging and mismanaging native affairs under crown administration is found in the hut tax levy in Sierra Leone.[1] In 1896 an ordinance was passed by the governor and council of Sierra Leone for the government of the hinterland. The part of this order which related to the occupation of waste lands was very objectionable to the natives, whom it led to fear for their land holdings. The order was repealed, but the repeal did not become known before it had been announced that there was to be levied a hut tax of five shillings. The natives were totally unaccustomed to such a levy, and it seemed to them a further step toward confiscation. The attempt to collect the tax, combined with outrages on the part of the native police, composed largely

[1] See *Parliamentary Papers* (Blue Books), 1899, Vol. 60, for Sir David Chalmers' report on this matter.

of former criminals and outcasts, who took this opportunity to avenge themselves upon their enemies, drove the natives to rebellion. Upon examining the situation, after order had been restored by force, the British commissioner advised the removal of the tax; but the government, influenced by the expensiveness of the colonial administration in West Africa, decided to retain it. The precedents from South Africa, where in Basutoland a hut tax of ten shillings, and in Zululand one of fourteen, are levied, ought not to be applied to West Africa, where conditions are totally different, as the latter country is not adapted to settlement by Europeans, and the natives must always remain the principal element in the population. Nevertheless, Mr. Chamberlain and the Colonial Office have attempted to solve the difficulties in West Africa by the methods adopted by Cecil Rhodes in his "sphere."

Sir George Goldie, perhaps the greatest administrator of our day in Africa, has given his opinion on the crown colony system as applied to that continent. "It is certain," he says, "that even an imperfect and tyrannical native African administration, if its extreme excesses were controlled by European supervision, would be in the early stages productive of far less discomfort to its subjects than well-intentioned but ill-directed efforts of European magistrates, often young and headstrong, and not invariably gifted with sympathy and introspective powers. If the welfare of the native races

is to be considered, if dangerous revolts are to be obviated, the general policy of ruling on African principles through native rulers must be followed for the present. Yet it is desirable that considerable districts in suitable localities should be administered on European principles and by European officials, partly to serve as types to which the native governments may gradually approximate, but principally as cities of refuge in which individuals of more advanced views may find a living if native government presses unduly upon them, just as, in Europe of the Middle Ages, men whose love of freedom found the iron-bound system of feudalism intolerable sought eagerly the comparative liberty of cities." [1]

The grasp of the principles of political evolution and of practical administration which this passage shows could hardly be overestimated. The idea that a numerous population, covering large territories, cannot be by political means raised *en masse* to a higher stage of development, and that, if political and social progress is to come about in such regions, the advanced methods and institutions must first be worked out in smaller areas, in cities and towns, which may thus become a model to the surrounding country, — this idea is based on the soundest knowledge of the laws of politics. To civilize by bayonets, to educate by force, to render moral by laws, — these are all Utopian notions,

[1] Preface by Sir George Goldie to Vandeleur's *Campaigning on the Upper Nile and Niger*, 1898.

although they appear under a strangely un-Utopian guise. Peoples, like individuals, can be deeply and permanently influenced only through a more quiet, less obtrusive, appeal to their inner nature *by example.* It may be the example of righteous living, or the example of efficient methods in political administration and in industry. Industrial example has done more to transform the Orient in the last decade than has all the political action of centuries. To impose upon a backward people institutions excellent in our eyes, but for which its historic experience has not as yet fitted it, is vanity and folly; to give within a limited sphere and area the example of correct methods and honest work, would seem an approach to a statesmanlike policy.

No system is so adapted to this end as a modified form of the protectorate. The essential thought in dealing with native societies should be that they must on no account be deprived of their morale and of their feeling of responsibility for their own destiny. Any government that attempts to begin their regeneration by setting aside their time-honored customs and degrading their natural leaders, is, as has well been said, guilty of a murderous assault, not merely upon human beings, but upon a society, an organism of even intenser life and higher destinies. Where native societies exist, in Africa, in Asia, and in Oceanica, they should be allowed to continue under their native leaders and under their inherited social system. The protecting power should confine itself to suppressing warlike

outbreaks among neighboring tribes, and to supervising in general the native administration so as to prevent abuses and to bring to book such chiefs as are unendurably cruel and incapable. But it should allow the natives to govern themselves according to their own customs and laws; though it would, to follow out the suggestion of Sir George Goldie, make its own methods in the residential towns a model to the natives in all respects, not only in matters of government, but of industry, commerce, and conduct. Thus the "civilized" towns of tropical Africa, which are now disgraceful dens of vice, might become true "cities of refuge." Of course, political power and unquestioned authority would be necessary to accomplish these ends, but more important far than these would be friendly relations with the natives, and the feeling among the latter that they were being aided, not repressed and exploited. A system of this kind is not only flexible and adaptable to all conditions, but it has the further great merit of being inexpensive; the natives need no longer be taxed directly for services which bring them no benefit.

When we glance over the whole vast area of territory within which the western powers now exercise political authority, we see that it falls into three classes of countries: those adapted to European settlement, — South Africa, Canada, and Australia, where institutions of self-government have been quite generally established; those in the tropics, inhabited by a population whose native

social institutions have been destroyed, — the West Indies and parts of the Philippines; and the extensive regions occupied by native societies, in Central and Northern Africa, Asia, and the islands of Oceanica. The continued use of the crown colony system seems to be advisable only in small military and naval posts, and in dependencies which have no adequate native institutions, and whose population cannot be organized into constituencies according to interests. Everywhere else more flexible institutions are desirable. In general it may be said that the colonies where some form of the protectorate has been consistently and faithfully applied have been the most successful ventures. Thus, France looks upon Tunis as her model colonial establishment, Great Britain has reason to be proud of her success in the Indian and Malaysian protectorates, and the great work accomplished by these methods in Java is matter of common knowledge. This experience shows that nowhere in the world can the natives be helped by having even the most perfect institutions worked out for them; the only way to benefit them in reality is to give them an opportunity to help themselves by developing in a natural manner their own customs and institutions.

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CHAPTER XII

SELF-GOVERNING COLONIES

During the earlier era of modern colonial development, especially during the seventeenth century, the English settlement colonies were left very largely to manage their own affairs, and to govern themselves by their own institutions and through magistrates of their own selection. The English government and people during this period had their attention fully occupied by the engrossing political events at home and on the Continent. But when affairs in England had again settled down to a more quiet and ordinary current, the government gradually began to realize the advantages of an extended dominion, and took steps to institute a stricter system of control over colonial politics and activities, and to make the latter subservient to the economic interests of the mother country. This policy in the end drove the thirteen American colonies to revolt and to struggle for their independence. The British government, far from recognizing in this loss a condemnation of the policy of strict control and of illiberal commercial laws, held to the idea that the political relations between the mother country and the colonies must be made

closer still, and the supervision over colonial administration much stricter, if similar losses were to be avoided in the future.

Thus, for over half a century after the Treaty of Paris, the British colonies were kept in leading strings, the primary influence in their political affairs being exercised by the governors, who kept in close touch with the home administration. However, as the constitutional law relating to colonies obliged the government to establish and maintain representative institutions in all settlement colonies, elected legislatures coexisted with direct administration throughout this class of dependencies. That these inherently incompatible elements could not permanently coöperate was a foregone conclusion. In many of the colonies there was almost constant friction, more or less serious, between the administration and the elective branch, which looked upon itself as the true representative of popular sovereignty. How serious a turn this state of affairs took in Canada we have already considered. It is remarkable that, although at this time the essential principles of cabinet government were but dimly understood, Lord Durham, by the suggestion in his famous report of 1839, that responsible government be established in the North American colonies, should have discovered and pointed out the only possible way to a solution of the difficulty. The colonies would no longer endure having the details of their policy, as well as its general outlines, determined by men

who received their grant of authority from the crown. The continuance of such a system could only have led to repeated revolts and ultimate separation.

The recognition of the simple principle that the high officials should be selected in accordance with the desires of the colonial representatives was all that was needed, but was also the least that sufficed, to reconcile the inborn sense of independence of the colonists with continued British dominion. It was not for some years after Lord Durham's suggestion, however, that this simple but important principle was fully recognized by the British government, and adopted as the basis of colonial relations. Its adoption did not necessitate any formal legislation, nor even an Order in Council. The understanding that thereafter ministers who could not command a majority in the colonial assemblies would not be retained as advisers to the governor, was fully sufficient. Lord Elgin put into operation this great constitutional change in a most simple and unobtrusive manner.

The date which is usually given for the beginning of the system of responsible government in Canada is 1846. It was next established in the older Australian colonies, in New Zealand, Cape Colony, Tasmania, Newfoundland, and, most recently, in West Australia in 1890 and in Natal in 1893. In the case of Cape Colony, the colonial legislature itself provided for "the introduction of

the system of executive administration commonly called responsible government." Sometimes certain constitutional limitations are especially provided for at the time when self-government is granted. Thus, in Natal, the administration is given the power to designate six high officials and to reserve them for appointment by the crown; provision is also made for sufficient appropriations to meet the salaries of the governor and of these officials, as well as the expenses of education among the natives. We may note here, in passing, that responsible ministries exist, not only in the two great federal governments of Canada and Australia, but also in every one of the individual colonies or provinces of which they are composed, with the exception of the Northwest Territories of Canada. In these latter provinces, however, although the executive council is not responsible to the legislature in the British sense, its members are elected by popular vote, and hence are responsible directly to the people.

All the great English settlement colonies have, therefore, attained to self-government, and have developed an almost independent political life. The connection with the mother country is maintained, not by compulsion or the fear of superior force, but through a spirit of accommodation between the home and the colonial governments, and a rational endeavor to respect and advance their mutual interests. Thus the colonies are enabled to benefit by the prestige of association with a great empire,

without being called upon for any serious sacrifices. The internal affairs, and in fact almost the entire polity of the colonial commonwealths, are left free from interference by the mother country. Lord Durham would have reserved for control by the home government the constitution of the form of colonial government, as well as the subjects of foreign relations, of trade, and of public lands; but not even in these important matters has the mother country forced its policy upon the colonies. The administration of the public lands has been turned over to them completely; they have been permitted to develop their own tariff policy and to negotiate commercial treaties with foreign nations; and while, of course, the general political relations of the colonies to the outside world are determined by the arrangements of the mother country, the colonial governments are always consulted before any important step involving their interests is taken.

The self-governing colonies of Great Britain have often been compared to international protectorates, and it admits of no doubt that they are in some respects very similar. In both, the foreign relations are controlled by the paramount state, while complete autonomy exists as to internal affairs. When, however, instead of present static conditions, we consider the matter of origin and of trend, the analogy ceases to apply. The origin of the relation which we are considering in respect to the self-governing colonies is a gradually devel-

oping autonomy, not a partial abdication of sovereignty by treaty as in the case of a protectorate. Through the various stages of colonial dependence which we have outlined, these colonies have risen to almost full-grown statehood, while the ordinary protected state has lost its former complete autonomy, and is usually on an inclined plane toward increased vassalage.

Though the future of the self-governing colonies is uncertain, it is safe to predict that they will not again allow the mother country to encroach upon their internal autonomy, and their renewed subjection is not to be thought of. Whether they will continue in some form of federation with the mother country, or whether they will sooner or later claim complete sovereignty, depends entirely upon how far the basis of common race and civilization can be supplemented by lasting economic interests. Meanwhile, the statesmen of the empire have a most delicate task in maintaining a certain amount of coöperation among commonwealths and populations so distant from each other, and tending more and more to diverge from their common origin. From these various considerations it will appear that the similar position which the self-governing colonies and the protectorates occupy is merely the point of intersection where two entirely different orbits meet.

The self-governing colonies of Great Britain offer in their adoption of the institutions of the mother country examples of successful imitation,

which is very rare in political history. It would, however, be more correct to say that the colonial commonwealths did not so much consciously imitate British institutions, as instinctively follow a course of development similar to that of the parent nation. Given the fundamental principles of English liberty and polity, with which the colonists were familiar through tradition and experience, it was but natural for them to use the institutional forms of the mother country as models and precedents. Many states have patterned after British institutions; but nowhere has the imitation resulted satisfactorily, except in the British colonies, where historical antecedents had prepared the people for their efficient use.

In the matter of social and economic legislation, these commonwealths have been able, on account of the absence of a firmly rooted system of classes and vested interests, to make many decidedly novel experiments. Some of them, especially the Australasian colonies, have thus become great experimental stations for advanced social reforms. Laws and methods of procedure which it would be difficult or impossible to institute in an old country without causing a feeling of social instability, are being put to the test in these younger and less trammelled societies. In this manner our knowledge of modes of social action is being constantly enriched, and some of our gravest problems are brought some steps nearer to solution. Far from being imitators, the colonists, starting from certain

fundamental principles of English liberty, are drawing their own conclusions as to the proper manner of protecting the sphere of the individual. As to the constitutional framework of the commonwealths, they do not, however, depart far from British precedents; so that the constitutional principles of the mother country can generally be applied directly to the colonies. This may be looked upon as a proof that the English system of cabinet government fully responds to the needs of ultra-democratic societies.

The place of a constitutional sovereign in this system is taken by the governor or governor-general. Like his monarchical prototype, he is the formal representative of sovereign power in the state. His political acts, however, require the sanction of a responsible ministry; or, to state the matter in a different way, the governor provides the form, while the legislature and ministry provide the contents and substance, of the various acts of the state. But the veto power of the governor brings out a characteristic of his position which differentiates him from a constitutional monarch. Exercised from the point of view of the colony itself, the veto power would be as meaningless as it is in a constitutional monarchy, where the king's ministers must be able to control the legislature. The governor is, however, more than the mere formal head of the colonial government; he is also the representative of the interests of the mother country, or rather of the common policy of the British

Empire. Acting in this capacity, he does not assume the character of an absolute monarch, but considers his responsibility to the home government. Should an act of the colonial legislature be clearly incompatible with the undisputed interests of the empire as a whole, or with continued allegiance on the part of the colony, it is his duty, and he has the constitutional power, to interpose his veto. To prevent the occurrence of difficulties which would necessitate a resort to this right is, however, one of his principal functions.

As a matter of fact, the veto power has always been exercised most sparingly in the self-governing colonies. In the twenty-four years preceding 1891 only seventy acts were disallowed out of over twelve thousand passed by the provincial legislatures in Canada. Since that date the instances of disallowance have been even fewer on the average. With respect to the provinces of the Dominion of Canada, it was provided by the British North America Act of 1867 that "the ultimate authority for determining upon the expediency of giving or withholding the royal assent to bills passed by the provincial legislatures shall be the governor-general of Canada and not the Queen." In many of the above cases of vetoes, the provincial act was disallowed rather from the point of view of the Dominion government than from that of the home authorities. Only one bill and two acts of the Dominion Parliament have been disallowed by the crown. In Cape Colony the veto has not been

employed at all, and in the Australasian colonies only eleven bills and five acts had been disallowed up to 1891. During the period from 1895 to 1900 a comparatively large number of colonial acts were refused the royal assent, — namely, five acts of Newfoundland, two of Natal, and three of Australian colonies.[1]

The governor, whose direct power is so limited that he can create no serious mischief, has, like the constitutional monarch, an unlimited opportunity for exerting a good influence upon the course of political affairs. If he be a man endowed with the instinct of tactful leadership and possessed of the accumulated wisdom gained by long experience in the public service, he will become the adviser of his advisers, and will be able to warn them against many pitfalls as well as to mould their policy by fruitful suggestions. Standing above parties, he will bring to the discussions of his council an unbiassed view of important questions, and his ministers will not be anxious to adopt a policy for which they cannot win his consent and support. Through the right of dissolving the legislature and of dismissing the cabinet, he is at all times able to test any policy or measure by a direct appeal to the people.

We must not overlook the many activities and sources of influence, aside from specifically political life, which his exalted position opens up to the governor of a great self-governing dependency.

[1] House of Commons Return, *Blue Books*, 1901, C. 363.

Not only is he the connecting link between colony and empire, but he is also given the opportunity of familiarizing himself with all the sections of his colony, and thus of representing its unity in the eyes of the people. His social position, too, contributes not a little to a general influence which a man of character and power may turn to the best uses of a legitimate ambition. While a governor of only respectable ability will perhaps remain a mere figure-head, a self-governing colony offers a rare field for a man of commanding power and unfailing tact. As he cannot make an appeal to brute force nor base his influence on unquestioned authority, as can the governor of a crown colony, he will feel a far greater satisfaction in making his ideas prevail, since success under these conditions indicates a great endowment of tact and the power of making men find their interests and pleasure in coöperation along certain lines pointed out by the master spirit. In some respects the governor may be compared to the official residents in protectorates; but although the latter have to deal with highly difficult situations, and often to handle men of ungovernable and unaccountable tempers, they always have a last resource in the threat of armed intervention, while the governor of a colony with a responsible ministry must accomplish his political objects without any backing of this kind. Lord Elgin, when governor-general of Canada, in his correspondence with Earl Grey repeatedly gives it as his opinion that a governor may have more real

influence in a responsible government than in a crown colony, and that, by acting on the principle of giving his ministers all possible support, and the benefit of his best advice, he "may hope to establish a moral influence which will go far to compensate for the loss of power consequent on the surrender of patronage to an executive responsible to the local parliament."[1] He points out the danger of becoming a mere *roi fainéant*, or, on the other hand, of falling into the petty hostilities of local factional struggles; but a man of positive aims, who possesses the dignity of an impartial arbiter, can exercise great authority and influence, an influence "wholly moral, of suasion, sympathy, and moderation, which softens the temper while it elevates the aims of local politics." Speaking of his own experience, Lord Elgin says: "I have tried both systems. In Jamaica there was no responsible government; but I had not half the power I have here, with my constitutional and changing cabinet." Other great governors of self-governing colonies, whose careers and words testify to the importance and power of this position, are Lord Dufferin, Sir William J. Denison, Sir Hercules Robinson, and Sir George F. Bowen.

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CHAPTER XIII

COLONIAL FEDERATION

It is very natural that groups of colonies which are contiguous or near to each other, and which have common economic interests, should gravitate toward some form of federal union. In most cases, however, though the results of the accomplished fact may justify the federation, there are countless obstacles in the way of its realization. Either the colonies are too young and immature to feel the existence of common interests; or, if they have a longer history, strong sentiments of local independence and loyalty have had time to grow up, so that federation can be achieved only through the mutual accommodation of important conflicting interests. Moreover, the attitude of the mother country has often been unfavorable to federation among the colonies. This may have been due to the fear that the union of a number of possessions might render them too strong and self-reliant for continued dependence; or, on the other hand, to the apprehension that the elements within the colonies which were not considered desirable from the point of view of the interests of the mother country would gain the upper hand through the policy

of federation. Notwithstanding all these contrary influences, there have been a number of important movements for federation among the British colonies, two of which have resulted in the establishment of very strong federal states.

The provinces of Upper and Lower Canada were at first organized separately, — a policy which was due partly to the belief that the French element could be handled better by itself, partly to the feeling that too large a colony might soon be encouraged to seek independence. In this matter the experience with the American colonies, whose united action had brought them independence, was of great influence upon English politics. The British government had never looked upon the earlier federation schemes of the American colonies with especial favor, and the ultimate outcome of these tendencies justified this reluctance from its own point of view. The consequences of the partition of Canada have already been adverted to in a previous chapter; the policy of isolating the French colonists resulted in arraying them in determined opposition to the colonial government. Lord Durham recommended union in the hope, which was ultimately justified by the event, that the French problem might thus be more readily solved.

The considerations that led to the establishment of the Dominion in 1867 were of a more complex nature. The French question had not been entirely settled by the union of 1841, since the

French now held the balance of power between the parties in the colonial parliament, and so continued to be a disturbing factor in the situation. But interests of a commercial nature were also prominent in bringing about the final union of the British North American provinces. In 1864, when Nova Scotia, New Brunswick, and Prince Edward Island took steps for the formation among themselves of closer relations, the government of Canada sent delegates to meet with the representatives of the other colonies. The result, after a course of difficult negotiations in which serious conflicts of interest and sentiment had to be adjusted, was the union of 1867. The British government was at this time not unfavorable to federation; the principles of Liberalism held full sway in England, and the feeling of the home government was that Canada must become self-supporting and self-reliant, even at the risk of her seeking independence. This feeling was strengthened by the apprehension, then quite general in England, that the United States, whose military energies had been released by the final surrender of the Confederates, might be tempted to seek an occasion for invading Canada.[1]

The government of the Dominion of Canada, which was created at this time, is one of the strongest federal governments in existence. Only by endowing it with great powers could the political purpose that prompted both the mother country

[1] See John Bright's speech of February 28, 1867.

and the colonies at that time be attained. The provincial governments were made decidedly subsidiary to the Dominion parliament, which exercises a power of revision over legislation in the provinces. Many fields of jurisdiction, which lie beyond the strictly common interests of the whole Dominion, are occupied by the Dominion government. Unlike that of the United States, it is not a government of enumerated powers, but one which possesses general sovereignty, limited by specific grants of power to the provincial governments and by the remaining few and rarely exercised rights of the British crown and Parliament.

In the West Indies also the British government for a long time pursued the policy of keeping the colonies separate politically; as a consequence, very little community of interest and sentiment has been developed in these British islands, considering how near they are to each other. More recently, after the islands have lost much of their relative importance, a federation movement has been started, which is favored by the home government, largely on the ground of economy in administration, and of the helplessness of the isolated colonies. Two smaller federations have existed for some time: the Leeward Islands have a common legislature, which may repeal or amend local acts, and has broad powers of original federal legislation; the Windward Islands, though without common assembly or council, are under one governor-general, and have a court of appeals as well as other federal

institutions, — in the language of the colonists, "a court and a lunatic asylum." In 1875 Mr. Salomon worked out a "plan for the union of the fifteen West Indian colonies," but thus far no decisive steps toward the creation of this larger union have been taken. So effective has the long-continued policy of isolation been that the individual colonies have more direct relations with Great Britain than with each other. There exists among them as strong a local pride as among the ancient Greek cities, and a similar unwillingness to subordinate themselves to a higher political union.

It is interesting to note that Canada has been for some time endeavoring to build up closer relations with the British West Indies. Informal negotiations for mutual commercial advantages have been going on, and quite recently some British steamship lines, which ply between Canada and the West Indies, have been granted a subsidy by the Canadian government. As a matter of fact, it is quite likely that the federation of the West Indies will take the form of a closer connection with Canada rather than of a union among themselves. The economic distress which now prevails throughout these islands can be relieved only by intimate commercial relations with either the United States or Canada. Indeed, union with Canada seems to be, in view of the inexorable economic laws at work in this matter, the only alternative to absorption in the current of our own expanding economic and political life.

The Indian Empire may be regarded under the aspect of a vast federal state. The original three presidencies of Madras, Bombay, and Bengal were at first mutually independent and were coördinate in power. The acts of Parliament of 1773, 1799, and 1833 gradually made the presidency of Bengal more prominent, and placed the other two under the control of its governor, who thus became the governor-general of India. Throughout the period of conquest, the central government increased in authority; and although this centralization was often criticised,[1] in 1858 and subsequently, it was not until 1870 that a movement in the opposite direction was begun. From the governorship of Lord Mayo down to the present time, the effort has been to strengthen the administrative powers of the provinces, now twelve in number: Madras, Bombay, Bengal, the Northwest Provinces and Oudh,[2] the Panjab, Burma, Assam, the Central Provinces, British Baluchistan, Ajmir, Kurg, and a new province created in February 1901, on the northwest frontier, and administered by a chief commissioner.

The Australian Commonwealth has been created in the face of difficulties which at times seemed well-nigh insurmountable. Superficially regarded, the economic interests of the several Australian colonies were opposed to each other; but the feel-

[1] See, *e.g.*, John Bright's speech of August 1, 1859.

[2] The lieutenant governor of the Northwest Provinces is also chief commissioner of Oudh.

ing of their deeper harmony has finally prevailed, and the year 1900, which marks a low ebb in the fortúnes of the British Empire in general, will stand for one of the greatest achievements in history, — the creation of a powerful federal state between the Pacific and the Indian Oceans. On account of the many conflicting interests and the strongly developed individuality of the several colonies, the federal government of Australia is, in the extent of its powers, not quite so strong as the Canadian. But though it does not so completely overshadow its component states, and reminds one more of the delegated powers of our own federal government, the potential vitality of the Australian Commonwealth is certainly sufficient to make a great state. Although the central government lacks the authority of directly negativing provincial legislation, it has been given jurisdiction over a number of important matters which are distinct from the purely federal relation. Most prominent among these subjects of legislation are marriage and divorce, banking, insolvency, arbitration of industrial disputes, and old age pensions. The Senate and House of Representatives are both elected by manhood suffrage, the former perpetuating the federal principle in a manner similar to the United States Senate, inasmuch as each state has the right to elect six senators. A High Court of Justice is established, whose jurisdiction covers cases arising under the federal constitution and differences between the states. An appeal to the

British Privy Council can be taken from the decisions of this court in federal constitutional cases only by its own permission.

Two of the great groups of self-governing colonies have thus accomplished federal union; in the third, this has been so far prevented by the existence of specially unfavorable conditions. Had the Dutch republics of South Africa always been under British control, it is highly probable that a federal state would have been formed long ago. But as it was, neither the English element nor the Dutch could foresee the probable results of federation upon political affairs sufficiently to trust their destinies to this policy. Moreover, under conditions as they have so far existed, any plan of federation which would not have meant simple annexation of the smaller colonies to the Cape — a policy made impossible by their strenuous opposition — would have necessitated the division of Cape Colony into several provinces. Such an arrangement would have encountered the greatest difficulties. But, notwithstanding all the opposing influences, some steps have already been taken toward establishing at least a Zollverein as a first beginning of federal union. Suggested as early as 1875 by Lord Carnarvon and by Mr. Froude, federation was first advanced as a well-considered policy by Sir Bartle Frere. In 1877 an enabling act was passed by the British Parliament for the union of the South African dependencies.[1]

[1] 40 and 41 Vict. c. 47.

But it was not followed by action on the part of the colonial legislatures. In 1888 Sir Gordon Sprigg called a conference, which was attended by representatives of Cape Colony, Natal, and the Orange Free State, in which a customs union with a uniform tariff of twelve per cent was favorably discussed. In 1894 a new plan for a customs union was proposed, which was also adopted by the above governments, with the addition of Bechuanaland and Basutoland; its provisions went into effect in 1898. The present war has retarded further development, and it depends entirely upon the nature of the government to be established in the conquered territories whether an effective federal union can soon be formed.

A federation quite different in character from those which we have thus far discussed is that of the Malay Federated States, whose formation has already been described. The specifically federal institutions which it comprises are the offices of high commissioner and of resident-general, and a federal council which meets in each of the four federated states by rotation, and is composed of all the members of their respective councils. It enables the British representatives to carry out a more uniform policy, and may lead to the gradual amalgamation of the Malay states into a true political organism.

We have above described federation among individual colonies only; it is also necessary to consider briefly the character and aims of the movement for

imperial federation. Of late, as we have seen, the tendency toward colonial federation has not been unfavorably looked upon by the home government. The reason for this change of attitude must be looked for in the fact that colonial federation is believed to be a step in the direction of imperial federation, a first victory over particularistic tendencies. Thus, in Australia, the colony of New South Wales had set itself against the idea of imperial federation in a most determined manner. As an individual colony, it was intractable on this point; but as the other colonies of Australia were readier at least to reason upon the proposal, the formation of an Australian commonwealth apparently constituted the only means of drawing New South Wales into the movement for imperial union.

The Imperial Federation League, which was formed in 1884, never had a very definite programme. The prominent men who led in its councils were themselves far from being at one, even on the general outline of the policy to be pursued. The league, therefore, confined itself to the endeavor of arousing interest in the general idea of imperial federation, to discussing its feasibility, to advocating periodical conventions of colonial representatives, and to promulgating the suggestion that the colonies should assume part of the burdens of imperial expenditure and thus give some return for the benefits received. While there were almost as many plans for carrying out this suggestion as

there were men interested, the plan of Mr. Hofmeyr, a South African political leader, attracted special attention. It contemplated that a two per cent customs duty should be placed on all imports into the empire from abroad; this was to be levied in addition to such duties as were already in force in the various parts of the empire. The revenue derived from this increase was to be devoted to defraying the cost of defence. Numerous other and more sweeping projects for an imperial customs union have been entertained. There were also put forward many speculative suggestions as to the creation of an imperial parliament, or the admission of colonial representatives to the House of Lords or to the House of Commons. Lord Grey recommended that the agents-general of the colonies should be admitted into the Privy Council, and from another source came the proposal that they should be made *ex-officio* members of the House of Lords. On none of the above matters, however, was any definite policy ever adopted by the League; the only positive recommendation on its part was that colonial conferences like that of 1887 should be held at frequent intervals.[1]

The British and the colonial governments, as well as the men who represent them in authority,

[1] The Imperial Federation League in Great Britain was dissolved in 1893. Three years later, a new association, the British Empire League, was created as its successor. The Imperial Federation League of Canada, which had been associated with the old league, changed its name to British Empire League and affiliated itself with the league in London in 1896.

have been very slow to commit themselves in this matter. The discussion of the general subject of imperial federation was expressly excluded at the conference of 1887 by request of some of the Australian colonies, and in 1889 Lord Salisbury refused to comply with the request to call a convention for that purpose.

In the matter of commercial arrangements and tariff accommodations within the empire, the various governments as well as responsible statesmen have been ready to encourage discussion and even to advise or to undertake action. In 1894 the Colonial Conference in session at Ottawa adopted resolutions embodying the following principles: that the dependencies of the empire should be enabled to enter into agreements of commercial reciprocity with each other and with the mother country, and that existing treaties preventing this should be abrogated; and that it would be advisable to make customs arrangements by which trade within the empire might be placed upon a more favorable footing than that carried on with foreign countries. In 1897 followed the tariff of Canada, by which preferential treatment was accorded to imports from Great Britain.

While the British government did not take any official action upon these matters, Mr. Chamberlain, in his speech of March 25, 1896, declared that he "desired a true Zollverein for the Empire, with a free trade system established throughout it, which, although it involved the imposition of

duties against foreign countries, might still lead to a satisfactory arrangement if the colonies on their part were willing to consider it." The details of Mr. Chamberlain's plan are that free trade is to be established throughout the empire, but the individual parts are to be permitted to impose duties on foreign imports; Great Britain herself is to lay a tariff on agricultural products, so as to favor her colonies against the rest of the world.

In 1898 the treaties with Belgium and Germany, which excluded discrimination in favor of the mother country on the part of the British colonies, were denounced by Great Britain, and thus the way was cleared for new commercial arrangements within the empire. The Rhodesian Orders in Council of 1898 established commercial union of the company's territory with the mother country. With the exception of the aid voluntarily offered by the self-governing colonies in the Boer War, the above are the only concrete results so far obtained in the movement for imperial federation. It may be noted here that Mr. Edmund Barton, in one of his first official statements as prime minister of the new Australian Commonwealth, said: "Free trade under the constitution would be practically impossible, because a very large customs revenue is requisite. Our policy, however, will be protective, not prohibitive. So far as the preferential duty on British goods is concerned, we should be glad to reciprocate where possible; but this is a question requiring serious considera-

tion." This cautious statement does not hold out much promise of favorable action on the part of the new commonwealth in the matter of an imperial customs union.

What then is the present status of the question of imperial federation? In the first place, we must not overlook the fact that the empire is already, to all intents and purposes, a federal state; for what other political term would so well express the relations between the self-governing colonies and the mother country? Indeed, even the crown colonies, to which a large amount of autonomy has always been conceded, could fitly be considered members of a federal union. Similar in this respect to all English political institutions, this federal organism is not the product of conscious artificial construction, but the result of gradual growth. While the coercive authority of the central government is too restricted to satisfy the ultra-enthusiasts for imperial power, there nevertheless exists a true federal union. The self-governing colonies manage all their local affairs independently, but they coöperate with the home authorities when their external relations are to be settled by treaties and commercial arrangements. Thus, while there is little or no compulsion, there is much coöperation under the guidance of the home authorities, a coöperation that rests upon the feeling of common interests and mutual forbearance and helpfulness.

Could such a situation continue indefinitely, it

would be an almost ideal form of federal relations, where the diversified interests of an empire would be allowed to adjust themselves to each other by tactful accommodation and without any resort to coercive force. But as there is nothing stationary in politics, we must expect either an emphasizing of the federal ties and the creation of more formal federal institutions, or the gradual establishment of complete independence on the part of the self-governing colonies. The latter aim seems to be not unattractive to the Australian colonies, which constitute a second England as far as sea-defended isolation and a consequent sense of self-sufficing independence are concerned. But, as long as the central government does not attempt coercion in any matter, it is not likely that even the Australian Commonwealth will be anxious to take the final step of separation.

So delicate, however, are the relations between the colonies and the mother country, so easily may the balance be inclined toward the desire for complete independence, that it is absolutely necessary for British statesmen to avoid anything which would grate on the colonies or interfere in any way with their ideas of autonomy. This gives us a point of view from which to survey and examine such schemes for more explicit federal sovereignty as that of Mr. Parkin, who would give expression to imperial unity by the creation of a central mechanism of government. In general, British statesmen have been wisely reluctant to advocate

any such conscious creations, which do not accord with the genius of the British constitution. Moreover, the attempt to create a central government, endowed with real power, could result only in institutions that would interfere too much with local autonomy to be acceptable to the colonies. It is more likely that such attempts, if pushed too vigorously, would lead to the alienation of at least some of the colonies, and to a rapid growth of the spirit of independence. Whatever measures are really needed to safeguard the general interests, the colonies will always gladly allow the central government to take, and hence it is certainly much better to trust to guidance by gradually accumulating precedents than to formal institutional changes.

But while the proposals for an imperial legislature would constitute a total breach with the past, in reducing the present British Parliament to a mere local body, the admission of the agents-general of the colonies into Parliament is not open to such serious objections. It would not distort the English system by swamping Parliament with colonial representatives anxious to make their power felt, and at the same time it would give the colonies an effective recognition in the councils of the body to which some of their most important affairs are intrusted. It has also been suggested that the agents-general of the colonies should be constituted into an advisory federal council. Such in an informal way they already are, although their

corporate character has not been developed to the same extent as that of the commission of crown agents.

Schemes for the construction of federal institutions command but little attention at the present time. Commercial federation is the only part of this subject which is being seriously discussed with a view to immediate action. There seems to be an instinctive feeling that it is more important to create a true economic solidarity than a mere outward mechanism of imperial government. But one of the greatest difficulties in this matter lies in the fact that such solidarity as already exists in the empire consists rather of ties between the colonies and the mother country, than of close relations among the individual colonies themselves. Thus it is hard to see how any real community of interests can soon be developed between the Indian Empire and the Australian Commonwealth, or between the latter country and South Africa. Even the interests of the mother country and of individual colonies are often in opposition to each other, the former demanding an extension of the policy of free trade, while the latter desire protection for their own nascent industries. Mr. Chamberlain's plan of an imperial customs union is based primarily upon the interests of England, and there is small likelihood that such a plan of free trade within the empire would be acceptable to the colonies, especially if India is to be included in the union. However, though we cannot expect

the immediate realization of this project, it is possible that it may be gradually approached through a series of arrangements for preferential duties, made between Great Britain and individual colonies, — a matter to which Canada has already made a handsome contribution.

The great question which is now being agitated is, Will Great Britain see her way clear to granting a *quid pro quo* in the form of preferential treatment of colonial produce? Mr. Chamberlain, in his address before the Chambers of Commerce of the Empire on June 9, 1896, said: —

"I pass now to the proposal that we should change our whole system and impose duties on food and raw materials. There is not the slightest chance that in any reasonable time such an agreement would be adopted. The foreign trade of this country is so large and the foreign trade of the colonies is comparatively so small that a small preference given us upon the latter would make so slight a difference and would be so slight a benefit to the total volume of our trade that I do not believe the working classes of this country would consent to make a revolutionary change for what they would think to be an infinitesimal gain."

He then expressed his readiness to grant such preferential treatment, in connection with a true British customs union, as proposed by the Toronto Board of Trade, which contemplated the "freest exchange of commodities within the empire consistent with the tariff requirements incident to the maintenance of the local government of each kingdom, dominion, province, or colony, now forming part of the British family of nations." It is also

within the power of Great Britain to grant some other form of return for preferential treatment of its imports by the colonies. For instance, certain colonial bonds are by statute admitted among the securities in which British trust funds may be invested. Thus by the Colonial Stock Act of 1900 (63–64 Vict. c. 62) this privilege is bestowed in case of certain Canadian and New Zealand bonds. Other colonial securities had already been given a similar privilege by previous enactments. The advantage of this concession to the colonial finances in the reduction of interest rates is obvious.

How deeply this problem of a customs union involves the entire industrial life of England, how great a departure from its traditional policy it suggests, is apparent at first view. British statesmen have always in their public utterances dwelt on the thought that England held her vast possessions in trust for humanity, and that it was her purpose to allow all the world to share the industrial and commercial opportunities under the system of law and order established by her. A departure from this policy, the creation of a tariff wall around the empire, could not but have the profoundest influence on the entire future, not only of Great Britain herself, but of all civilization.

As none of the plans for giving more formal expression to the institutional unity of the British Empire are at present being seriously considered, and as we, nevertheless, feel that the empire is an

actual entity,[1] and not a mere fortuitous agglomeration of states, it may be interesting to ask what constitutes the real basis of the political unity of the British Empire, and upon what forces we may count for strengthening the feeling of union.

The financial relations between Great Britain and the colonies claim our first attention in this consideration of the ties that bind the empire together. Although all such computations are more or less defective, it may safely be said that at least one billion pounds sterling of British capital is invested in the colonies. London is the great financial centre of the whole empire; from it the colonial banks are supplied with funds, railways and public improvements are financed, and manufactories are established. The influence of these agencies in drawing the various parts of the empire together, in overcoming particularistic and provincial tendencies, and in transmitting the cosmopolitan spirit of London to all parts of the British world, cannot be overestimated. Incidentally it may also be noted that the continued concentration of the capital of the British Empire, by which

[1] Kipling, in a letter, has expressed this feeling in the following manner: "Influence other people to drop allusions to the 'loyalty of the colonies.' In the first place, I dislike the word 'colonies,' and if you look through my verses you will find that I very seldom use it. It is out of date and misleading, besides being provincial. In the second place, there is no need to talk of loyalty among white men; that is one of the things we all take for granted — because the Empire is us, we ourselves." Cited in Davidson, *Commercial Federation*, p. 116.

manufacturing establishments in various colonies are coming under unified control, will ultimately become a powerful factor in reducing the opposition to imperial free trade.[1]

Another important tie consists in the reciprocity of industrial interests between the mother country and most of the colonies; the raw materials which the latter produce in such large quantities can be exchanged for the manufactured products of Great Britain. But in order that Great Britain may continue to be a promising market for colonial produce, it is necessary that her commercial ascendency in other countries outside of the colonies should not be materially impaired. We encounter here one of the most serious objections to an imperial customs union. Such an exclusive arrangement would without fail lead to discriminations against British commerce in foreign countries, and it would be a long time before the colonies could develop sufficiently to constitute a market for British goods at all equal to the international market which at present exists. Should a customs union be adopted,

[1] The Congress of the Chambers of Commerce of the Empire, which has met periodically since 1892, is a body which represents the commercial and industrial interests throughout the empire, and which has discussed in considerable detail various proposals for an imperial customs union of some kind. Lord Avebury, at the meeting of the congress in 1900, introduced a resolution for the codification of commercial law throughout the empire. This last congress also passed a resolution asking the government to appoint a commission to consider imperial trade relations; Lord Salisbury, however, declined to comply with this suggestion.

the duties would have to be kept within very reasonable limits, if unwelcome consequences to England and to the whole British Empire were to be avoided.

Their membership in the British Empire has secured for the colonies an immunity from outside attacks and encroachments. What the ocean has been to the United States in this respect, the empire has been to the colonies; it has enabled them to employ their energies in the development of their natural resources without fear of attack and without heavy expenditure for defence. It is a wise policy that the colonies should dedicate their powers preferably to the conquest of nature, whose riches invite control and utilization, and promise such ample returns. The mother country has thus far borne the brunt of the burden of defence, but the colonies have begun to assume their share, and have signified their readiness for more coöperation in this matter. The crucial test of the strength of imperial ties would arrive were Great Britain to become involved in a war with a first-class power. While it is, of course, impossible to foretell the attitude of the self-governing colonies, it will hardly be supposed that they would entirely desert the mother country at such a juncture, unless the war had been entered upon notwithstanding an express protest on their part.

Much might be said about the community of language, literature, political and social traditions, and general culture, between the mother country

and the colonies;[1] about all the possibilities of common action and feeling brought out by recent imperialistic writers; about the system of political and social honors, in which the colonists share;[2] and about the natural feeling of gratification at belonging to a powerful society and empire. Though these sentiments and impulses, taken by themselves, may not be strong enough to endure the strain should other interests conflict, they still form ties which the fostering care of wise statesmanship may succeed in strengthening to an indissoluble bond of union.

This may be said of all the common interests and sentiments which we have been discussing. They are all elements in a growth toward firmer union, though this union may never take the form of fixed institutions such as have frequently been suggested. No greater mistake could be made than to try to force this growth by an attempt prematurely to settle and define the mutual relations. As it is, we have in the British Empire a vast commonwealth held together by common consent, based on traditions of civilization, and on the feeling that all parts profit by membership therein, and that they are not curtailed in their individual

[1] The various religious denominations assist in fostering the feeling of imperial union. This is true especially of the Anglican church, the colonial bishops of which maintain the closest connection with the mother country.

[2] The Order of St. Michael and St. George, the Order of the Star of India, and that of the Indian Empire, all constitute ties of social honor which bind men in all parts of the empire together.

development. It is indeed a most interesting experiment in federal government. Even should the various colonies become independent states, they would not cease to be friendly to Great Britain; and we should still have a great Anglo-Saxon federation, which, we may hope, being itself founded on good will, would oppose ambitious policies of conquest and make for peace.

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PART III

INSTITUTIONS OF COLONIAL GOVERNMENT

CHAPTER XIV

ORGANS OF COLONIAL GOVERNMENT IN THE MOTHER COUNTRY

In the manner of organizing the institutions of colonial administration located in the mother country, in the amount of colonial business there transacted, and in the extent of interference with the local colonial authorities, the practice of the different governments varies considerably. This matter has an intimate connection with the general colonial policy of a country, — whether it be that of assimilation or that of autonomy. In a country where the former is followed, the home administration will be very complex and will closely superintend the details of colonial government. Where, however, the tendency is rather toward colonial autonomy, the central organism will be simpler, and it will, in most cases, leave the initiative with the local authorities. It is thus apparent that details of organization which at first sight seem purely adventitious and hence very uninteresting, assume, through their connection with this general character of national policy, a good deal of interest and importance.

Of all countries France has the most intricate

central colonial administration, the greater part of which is a very recent growth. It was only in 1894 that a separate ministry of colonies was created. Prior to this date the administration of colonial affairs had been attached alternately to the ministry of marine and to that of commerce. The above measure was strongly opposed by the colonial deputies in the French parliament, who looked upon it as a step away from the policy of assimilation to the mother country which they favored. The policy of assimilation, if consistently carried out, would place the various local branches of colonial administration directly under the respective ministries of the home government, as has been done in the *système des rattachements* applied to Algeria. The creation of a separate ministry of colonies implies that the colonies are to be under a special régime and are not to be treated as integral parts of the mother country. However, the force of circumstances overbore these arguments of the colonial representatives. The great colonies which France had acquired in Asia and Africa could no longer be managed as subordinate attachments to the ministry of marine, and, on the other hand, the immediate extension of the whole system of French administration to them was too radical a measure even for the French statesmen, however strong their belief in the general policy of assimilation might be.

The separate ministry which thus came into being has not been given a simple and harmonious

organization. From time to time bureaus and permanent commissions have been added by ministerial or parliamentary action, which have tended to make its workings cumbersome and intricate. The remark that is often applied to French burcaucracy appears to be especially apt in connection with this ministry, namely, that it takes one half of the officials to determine the distribution of work among the other half. The following are the various departments, commissions, and bureaus of the French colonial ministry: —

I. The Cabinet of the Ministry, — which discusses matters of general policy and recommendations made by the Chambers and by the Colonial Council.

II. The General Secretariat, —

First Bureau, — Dealing with the relations of the colonial office to the President of the Republic and to the various ministries.

Second Bureau, — Personnel of the colonial civil and military service.

Third Bureau, — Justice, cult, and education.

Special Section, — Geography.

III. "Directions."

A. African affairs.

B. Colonial affairs in Asia, America, and Oceanica.

C. Accountability and penal service.

First Bureau, — Budgets and accounts.

Second Bureau, — Stores and provisions.

To this is attached the central magazine of colonial supplies.

Third Bureau, — Salaries and pensions.

Fourth Bureau, — Administration of the penal settlements.

IV. Divers commissions and services.

1. Direction of control (*Direction de contrôle*); created by decree of August 17, 1894; supervises the central administration.
2. Colonial inspection (*L'inspection de colonies*); decree of November 29, 1887; dealing with the inspection of the local colonial services.
3. General inspection of public works in the colonies; decree of August 17, 1894; to which is attached a committee of public works in the colonies.
4. General inspection of the health service in the colonies; decree of January 7, 1890; to which there is attached the superior council of health (*Conseil supérieur de santé*).
5. The technical military committee of the colonies; decree of May 23, 1896; of which the military bureau of the colonies is a part.
6. Permanent commission of purchases and receipts (*La Commission permanente de marchés et de recettes*); which is attached to the bureau of stores and provisions under direction "C."
7. The superior committee on public instruction in the colonies.
8. The consultative committee on agriculture, commerce, and industry in the colonies.
9. The commission for the surveillance of colonial banks.
10. The permanent commission of the penal régime (*La Commission permanente du régime pénitentiaire*).
11. The consultative committee of administrative jurisdiction in the colonies (*Le Comité consultatif du contentieux des colonies*).

In addition to these there are various commissions for the verification of the accounts of colonial railway companies.

V. The Colonial Office (*L'Office colonial*), founded in 1899.

VI. The Colonial School (*L'École coloniale*), founded in 1885.

VII. The colonial experiment station at Vincennes, founded in 1899, administered by a council nominated by the minister of colonies.

VIII. The Superior Council of the Colonies (*Conseil supérieur des colonies*), created by the decree of October 19, 1883.

Attempts were made on two occasions to create a more logical classification of the colonial service. In 1894 the principle of subject-matter was used as a basis, and there were created three *directions*, that of political and commercial affairs, that of accountability and penal services, and that of colonial defence. In 1896, however, this system was remodelled, and the geographical principle was introduced to a certain extent in the *directions*, while the original principle of classification by subject-matter was retained in the other parts of the ministry. The classification in individual cases is sometimes exceedingly arbitrary, so that it occasionally seems as if the colonial business had been pigeon-holed in the various bureaus without much regard to system. Thus, in addition to the functions indicated above, the third bureau of the General Secretariat has the care of colonial archives, administrative courts, unclaimed successions, and so on.

The general character and functions of most of the parts of the central administration are apparent from their designation or from the brief description given in the above table. Certain of them,

however, demand more special attention. The Colonial School, which was founded in 1885, was at first intended to provide means of education for the natives of the colonies. But the demands that were made upon it from this source were so slender that the school was soon transformed into an institution for the training of colonial civil servants. It has, therefore, been considerably expanded, and comprises at the present time four administrative sections, a commercial section, a preparatory division, and, as a remnant of its original purpose, a section for native students from the colonies. The four administrative sections prepare respectively for the colonial commissariat, the Indo-Chinese administration, African affairs, and the administration of the penal settlements. The requirement for admission to this school is the possession of the degree of bachelor, or its equivalent. Graduates of the school are eligible for appointment to a large number of positions in the colonial service.

The Colonial Office (*L'Office colonial*) took the place of the permanent colonial exhibition which had existed since 1870. It continues to provide exhibits of colonial produce and manufactures, and also constitutes a bureau of information for emigrants and investors. Colonial officials who are spending their furloughs in France are required to give the office a certain portion of their time, in order that they may be consulted by persons seeking information on colonial matters.

A striking feature of the French system is the existence of a large number of commissions of inspection. Not only is there a general inspection of the colonies, which deals chiefly with the financial administration, but the various branches of colonial government are under the inspection of special permanent commissions. It is a characteristic of the French system, which it shares with that of Spain, that colonial officials are very carefully watched by means of an elaborately organized inspection service.

The Superior Council of the Colonies is a large body, composed of the colonial senators and deputies, special colonial delegates, *ex-officio* members, persons nominated by the colonial minister on account of their special knowledge or experience, delegates of French chambers of commerce, and delegates of important colonial societies. The council is divided into four sections according to the geographical principle: the first section deals with the affairs of the American colonies and Réunion; the second with Africa; the third with Indo-China; the fourth with French India, Madagascar, and Oceanica. The council has merely consultative functions; it gives advice on projects of legislation and on administrative regulations submitted to it by the colonial ministry. Although the council is composed very largely of representative men, and its opinion should be a valuable guide to the government, it has not often been able to arouse itself to much interest in its func-

tions, nor can any important measure of colonial legislation be traced to its influence. For a consultative body it is too large, as it is impossible to *consult* with a numerous assembly; hence, in 1896 a permanent commission was constituted from among its members, which has practically absorbed the functions of the larger council.

That part of the central administration which has been most unfavorably criticised at home is the bureau for colonial supplies, and the magazine attached to it. This magazine was at first administered by the Minister of War, colonial supplies being treated much as those for the army. This system has been continued under the colonial ministry. The supplies needed by the local colonial administration are purchased in France from French contractors, often at very much greater expense than they could be obtained for in the colonies themselves. In his report on French colonial finance in 1900, Senator Siegfried condemned especially this method of making purchases.

When we have discussed all these branches of administration, we have not, however, as yet exhausted the subject. Thus, Algeria, which is to all intents and purposes a colony, is not governed through the ministry of colonies, but its affairs are divided among the several French ministries, each one looking after that part of the Algerian administration which is analogous to its own field of jurisdiction in France itself. Moreover, Tunis, as

being in law not a colony but a protectorate, is placed under the administration of the ministry of foreign affairs. The fact that Tunis is the most successful colonial experiment of France would rather seem to be a reflection on the general efficiency of the methods employed by the ministry of colonies. Technically, the administration of Tongking, Anam, and Cambodia should also be under the ministry of foreign affairs, as these countries are still looked upon as protectorates; but the colonial minister has obtained practical control over them. The anomalous character of their political relations is indicated by the fact that while the colonial ministry treats them as French territory, the Foreign Office does not admit that they have this quality, and hence does not allow the time of residence in these protectorates to count toward the acquisition of French citizenship.

In addition to all the administrative organs we have already noticed, we must at least mention the committee on colonial affairs in the Chamber of Deputies (*Groupe coloniale de la Chambre*), although, as we shall see later, the parliament does not interfere very much with the colonial administration. Indirectly, however, this committee exercises a great influence over appointments in the colonial civil service.

In Germany, colonial business was originally entirely under the control of the Minister of Foreign Affairs. In 1890 a special colonial division, the

fourth division of the Foreign Office, was created, and it was given a considerable amount of independence. The chief of the division reports directly to the Imperial Chancellor, and is subject to the Minister of Foreign Affairs only in so far as general politics and foreign relations are concerned. In specifically colonial affairs the division is, therefore, practically coördinate with the office of which it is formally a part. The German administration is, like the French, assisted by a colonial council (*Kolonialrat*) created in 1890. This body is appointed by the Chancellor of the Empire from among colonial experts, and the nominees of prominent colonial associations and companies. Its functions are purely consultative, but as it is a small body, having only twenty-five members, it is far better suited to its purpose than is the much larger council in France, and it has proven a valuable adjunct to the German colonial office.

In Holland the crown enjoyed the exclusive control of colonial affairs until 1848. In that year the colonial office was put in charge of a member of the responsible council of ministers, and it has from that time to the present had a separate existence.

The central administration of colonial affairs in Great Britain is divided among three of the secretariates of state. The colonies proper are, of course, administered by the Colonial Office; Indian affairs are under the separate direction of the Secretary of State for India; while the Foreign Office directs the administration of the protectorates, such

as Egypt and East Africa. In the Colonial Office, system and rules are regarded of much less importance than personality; officials of tried character and experience are given a great latitude of discretion, and settle conclusively the majority of cases in their respective departments, so that, as has been said, in respect to any colony, the "mother country" is generally synonymous with a chief clerk in the Colonial Office. There is one parliamentary and one permanent under secretary, the latter being in ordinary matters the head of the office, as he represents the continuity of its policy. The other grades of leading officials are the first assistant secretaries, seven principal clerks, and an equal number of first-class clerks. All these permanent officials are university men, and they have in most cases entered the office as second-class clerks after a successful civil service examination.

The eight divisions of the Colonial Office comprise five principal departments, among which business is distributed according to the geographical principle; and the additional departments of correspondence, general and financial affairs, and accounts. The division of territory among the five principal departments is as follows:—

1. North American and Australian department.
2. West Indian department.
3. The Eastern, Ceylon, and Straits Settlements department.
4. South African department.
5. The department dealing with the concerns of

St. Helena, Sierra Leone, Bechuanaland and Basutoland, Gambia, Natal, Gold Coast, Lagos, and Malta.

The Colonial Office is at the present time considered the most efficient part of the British administration. It is characterized by rapidity of work, simplicity of methods, and a feeling of *esprit de corps* which binds all its parts together and insures their harmonious activity.

In close relation to the Colonial Office the agents-general of the self-governing colonies and the crown agents perform their work. The former, appointed and maintained by their respective colonies, are virtually ambassadors accredited to the British government; they are always men of social and political importance, and they maintain the dignity of the office on a level with the embassies of great independent nations. Their duties are, in general, to represent the varied interests, political and economic, of their colony at the capital, and especially to assist in the conclusion of financial and commercial arrangements in which their colony is interested.

The financial and commercial affairs of the crown colonies are looked after by the crown agents, who also were formerly employed by the colonies themselves, but who have been appointed by the Colonial Secretary since 1883, when all the crown agencies were united into one organization, which is under the general supervision of the secretary, though distinct from the Colonial Office.

The crown agents, at present three in number, who are always men of ripe experience, have gradually acquired so great a power in colonial affairs, that their influence has at some times been resented even by the colonies themselves. The importance of their work is shown by the fact that the present permanent under-secretary of the Colonial Office was appointed to this position from that of senior crown agent.

The official quarters of the crown agents are as large, their employees as numerous, as those of the Colonial Office itself. Their business is to negotiate government, municipal, and railway loans for the crown colonies; to pay interest coupons, salaries, and pensions in Great Britain; to make contracts for the material and construction of railways, hospitals, prisons, schools, and public buildings. They also prepare and print postage stamps, bank notes, and bonds. As the work of the office requires special technical knowledge on the part of the employees, the crown agents are not bound by the Civil Service Law, but are empowered to select their clerks according to their sound discretion.

The expenses of the office are paid out of commissions — usually less than one-fourth of one per cent — on the financial arrangements and purchases effected by the agents.

The India Office is the successor of the "India House" of Company days, although it has exchanged the commercial for the purely political

character. The general policy of the Indian Empire is fixed, and the most important public measures are inaugurated, by this office. Its business is so complex that it requires a larger number of employees than either the Colonial Office or the crown agents.

The Secretary of State for India is assisted by the Council of India, which is composed of no more than fifteen nor less than ten members, appointed by the secretary himself. The majority of these members must have resided in India for at least ten years, and their return thence must have been less than ten years distant from the date of their appointment. They hold office for ten years, whereas the high officials in India itself hold terms of only half that time. The council, therefore, represents the traditions of Indian policy better than does the Indian government itself, and it is thus able to assist the latter in a most efficient manner. Every act of the Secretary of State must at least be brought to the notice of the council, but certain matters necessitate the concurrence of the majority. They are the following: grants or appropriations of Indian revenues; borrowing money in Great Britain on the security of the Indian income; buying, selling, or mortgaging Indian property and making contracts with respect to it; regulating appointments to office in the Indian civil service. In all other matters the Secretary of State may act after having merely brought the measure to the knowledge of the

council. In case a majority of the council should express their dissent, the secretary must, if he is determined to proceed in his course of action, file his special reasons for so doing.

The Foreign Office administers the affairs of the British protectorates, with the exception of Cyprus and the territory of the British South Africa Company. The Indian protectorates, however, are under the control of the foreign department of the Indian government, and through it under the India Office. It is not to be wondered at that the Foreign Office, which is responsible for the entire external relations of the British Empire, should have but little time and energy left for dealing with purely colonial matters. Conspicuous inefficiency is complained of in the administration of the Uganda railway. The original estimates for this enterprise were £1,750,000, while the ultimate cost of the railway was £4,750,000, a discrepancy which would hardly have occurred had the matter been under the administration of an office more directly interested. It is a notable fact that during the last five or six years the most important and absorbing foreign affairs of Great Britain, the South African relations, have been managed through the Colonial Office; while the Foreign Secretary has been much busied with colonial matters in the guise of the affairs of British protectorates.

The Department of the Exchequer, or the Treasury Office, also has some functions connected with colonial government. The Colonial Audit Branch

of the auditing department in the Treasury acts as an inspecting agency to which colonial accounts have to be submitted. Great Britain has no perambulatory inspection of the colonial administration. In certain colonies, Hongkong, Cyprus, Sierra Leone, and a few others, auditors are stationed; but the main audit takes place in the Treasury Department itself.

There are several semi-official institutions connected with British colonization, which it must here suffice to enumerate. The Imperial Institute, founded at the time of Queen Victoria's first Jubilee, and housed in magnificent quarters in Kensington, is an organization of mixed social, political, and scientific character. It has a library on colonial matters, holds periodical conferences, and issues publications. One of its most practical features is a permanent exhibition of colonial produce and materials of commerce; it also has large laboratories in which the mineral and agricultural products of the colonies are subjected to various tests and experiments. The Colonial Institute is an older organization. It has some of the features of a club for colonial residents and officials, but its main purpose is the furtherance of the study and discussion of colonial problems. The Emigrants' Information Office was founded in 1886. It is a small bureau which issues useful books of information on the various colonies and also gives advice directly to intending emigrants and investors.

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CHAPTER XV

LEGISLATION FOR THE COLONIES

HAVING in the last chapter considered the organization of a central colonial administration, we shall now briefly review the methods of legislation for colonies, and the manner in which legislative power and activity is divided among the various authorities.

The French régime of colonial legislation goes back to the Second Empire. By the constitution of 1852, the Senate was empowered to legislate for the colonies, and in the *sénatus-consultes* of 1854 and of 1866 the methods of legislation with respect to Martinique, Guadeloupe, and Réunion, at that time called *Les grandes Colonies*, were fixed. Although the system has been modified somewhat by subsequent legislation, it still retains the outlines then adopted. The characteristic feature of the system as applied to these three islands is that certain classes of legislation respecting them must originate in the Chambers, and others must be embodied in a decree of the council of state. All other French colonies are governed by simple decree of the head of the state; that is, although in their case also the Chambers may legislate

directly, there is no topic of legislation which transcends the authority of the executive acting by simple decree, as long as the parliament has not settled a rule with respect to it. This system is accordingly called *régime des décrets*. In the *sénatus-consulte* of 1854 it was declared to be the intention of the Senate to provide for the colonies not yet placed under the parliamentary régime, by appropriate legislation. Such legislation has, however, not ensued thus far, so that all French dependencies, with the exception of the three old colonies, are governed by executive action through simple decree.

In the French system there are six modes of legislation for the colonies: namely, laws, decrees of the council of state, simple decrees, orders of the colonial minister (*arrêtés*), acts of the colonial councils, and orders of the governors. Under the conciliar system established for the three old colonies by the *sénatus-consulte* of 1854, the following matters can be regulated only by a law of parliament:[1] commercial and customs legislation (by the *sénatus-consulte* of 1854 this was in the competence of the Chambers, by the *sénatus-consulte* of 1866 it was given over to the colonial councils, but in the law of 1892 the parliament has resumed control over the commercial régime), status, property law, contracts, wills, succession,

[1] Originally by a *sénatus-consulte;* the special function of the Imperial Senate to legislate for the colonies is now exercised by the whole parliament.

sales, and marriage, — that is, practically the entire civil law with the exception of procedure. In addition to this, political rights, trial by jury, the penal law, and the extent of recruitment in the colonies, are fixed by parliamentary legislation.

By decree of the council of state the following matters are to be settled: judicial organization, cult, education, the mode of recruitment, municipal, monetary, and administrative organization.

A simple decree suffices to render applicable in the colonies any part of the legislation already in force in the mother country. By the same method all matters not otherwise specially provided for may be settled.

The *arrêtés* or orders of the minister for the colonies are executive ordinances; that is, they do not constitute a method of general legislation, but regulate individual acts of the local administrations.

The orders of the colonial governors promulgate metropolitan legislation in the colonies, carry out the same, and regulate matters of local administration and police. The legislative authority of the colonial councils under the *sénatus-consulte* of 1866 has already been discussed.[1]

The French system of 1854 is an interesting and unique instance of an attempt to divide the functions of colonial legislation among various organs, according to the importance of the subject-matter. One great practical difficulty inherent in

[1] In Ch. X.

the system, is that it leads to constant uncertainty as to the validity of legislation. Rules have often been established by simple decree or by decree in council, concerning which very serious doubts have arisen, whether they should not under the law have been settled by the Chambers themselves. As the system in its full extent applies only to the three above-mentioned small islands, it would not be of great importance were it not for the fact that it furnishes a model and standard of criticism in French colonial politics. Dissatisfaction is constantly expressed with the fact that most of the colonies are under the *régime des décrets*, and that any law may be imposed upon them by the mere order of the executive. M. Leroy-Beaulieu says: "It is in many respects an unreasonable system. Its object is to take away from the natural representatives of the nation the oversight and control of affairs which are of great present and future importance to the state; it is a trespass of the executive power upon the essential attributes of popular representation." [1]

This opposition to the system of decrees is founded on the feeling that the national executive interferes too much with colonial administration by legislating directly for the various colonies. For a solution of the difficulty most French publicists look to an increased amount of colonial legislation by the Chambers. It is, however, exceedingly doubtful whether parliamentary action on these

[1] *De la Colonisation chez les peuples modernes*, p. 830.

matters would give any relief to the colonies. The ultimate ideal of the French with respect to colonial affairs is a policy of assimilation to the mother country; they therefore see nothing unreasonable or dangerous in an arrangement, under which the ordinary legislation for the colonies would originate in the national parliament.

As a matter of fact, there is no body or institution less fitted to govern colonial dependencies than the home legislature, which lacks almost all knowledge of colonial conditions and looks at all colonial questions from the point of view of party politics within the home country. The French object to a monopoly of colonial legislative power in the hands of the executive; few of them see that the better solution of the difficulty would be found, not in the direction of added parliamentary interference, but in giving greater autonomy in legislative matters to the local government in the respective colonies. It is there that ordinary colonial legislation should originate, — in councils, appointive or legislative, which are familiar with local conditions. The colonial ministry at home has its proper function in guarding and supervising, but not in originating and framing, this legislation; and as for parliamentary interference, it should but rarely take place, if at all, and then only on questions of broad national policy or of the fundamental constitution of the colonies.

Indeed, there has been little inclination on the part of the French Chambers to legislate regularly

for the colonies. Colonial questions are discussed only when the budget is under review, or upon interpellation, as in the case of the Martinique strike in 1900. But on this latter occasion the socialist deputies, who held the balance of power and whose sympathies had been worked upon by the colonial representatives, nevertheless declined to censure the government for having used troops against striking laborers; but joined in the vote of confidence in the ministry, because, as one of their number said, they "did not wish to furnish the opportunity to some ambitious men for gathering up a portfolio from the blood of the laborers of Martinique." As a matter of fact, no French cabinet has ever been turned out of office upon a colonial question. That the power of legislation in colonial matters has been but rarely exercised by the French Chambers is apparent from the fact that during the twenty-eight years from 1871 to 1899 only thirty-one laws were passed relating specially to the colonies. This does not include the legislation for Algeria, which during this same period amounted to seventy-nine laws. Algeria, being regarded as a part of France, was given special attention by the Chambers.[1] The following important "metropolitan" laws have been declared applicable to the colonies: in 1881, the law of the freedom of the press; in 1882, the law concerning the election of *maires;* in 1884, the municipal law; in 1889, the law

[1] See the list of laws and public documents relating to the colonies, in *Revue politique et parlementaire*, XXIV. 198–204.

regulating recruitment; in 1892, the customs tariff act. The current special legislation for the French colonies originates rather in executive decrees than in parliamentary acts.

The British Parliament, while it is of course competent to legislate directly for the colonies, uses this power most sparingly, and does not habitually interfere with, or control the details of, colonial administration. During the years from 1880 to 1900, Parliament passed only forty-seven acts relating to the colonies and dependencies; and of these, only eighteen were of such a nature as permanently to affect colonial institutions, the remainder being fiscal or administrative regulations, such as the permission to raise money for the construction of certain colonial or Indian railways.

There was, however, a period in the years between 1891 and 1894, when there appeared a strong inclination on the part of Parliament to criticise the Indian government and to interfere with its administration: resolutions were passed, commissions of inquiry appointed, and several measures of legislation were adopted, looking toward a more direct control of Indian affairs. Mr. Gladstone, in his speech of April 25, 1892, defined the position of Parliament in this matter as follows: "While it is not our business to provide machinery for the purposes of the Indian government, it is our business to give to those who represent Her Majesty in India ample information

as to what we believe to be sound principles of government; but the choice of measures we should leave to their discretion." Resolutions calling for a certain course of action on the liquor problem, the prevention of contagious diseases, and the opium traffic were passed during this period. Parliamentary commissions were appointed to investigate the manner of dealing with contagious diseases, the revenues, currency, and expenditure in India. In 1894 the Indian government was severely criticised on the basis of the report of the Opium Commission. The attempt was also often made to embarrass the government by the asking of questions in the House relative to the conduct of Indian affairs. None of these methods succeeded, however, in making a strong impression upon the Indian administration; it was felt that a question of this kind would not be made the basis of a test vote in Parliament. The interpellations were, therefore, in most cases answered evasively; the resolutions were respectfully received and promptly filed away in the archives, and the commission reports aroused but little attention. Thus a resolution passed by Parliament that the examinations for the Indian civil service should be held not only in England, but also in India, has been completely ignored by the Indian government.

During the last decade the British Parliament has legislated directly for India in the following cases: the Indian Councils Act of 1892, the act of 1893–1894 abolishing the residential armies in

Madras and Bombay, the British Indian Loan Act of the same year, the act of 1894, enabling Indian railways to pay interest out of the capital during construction, the act of 1897 concerning a widows' fund, an act of the same year defining certain rights to superannuation allowances in the Indian civil service, and the Loan Act of 1898. Only the first two of these were general laws, the others being merely administrative measures. The Indian budget is always reported to, and acted upon by, Parliament. As this is, however, usually done in the expiring hours of the session, little thorough discussion can be had. The interference of Parliament with Indian affairs, notwithstanding its infrequence, has at times been of such a nature as to arouse serious criticism. This is true especially concerning the removal of the Indian cotton duties against local and native opinion, and the retention of the silver-plate tax.

With the exception of a few instances of ill-advised interference, the British Parliament has in general acted in such a manner as to avoid the danger pointed out by John Stuart Mill in the following passage: "To govern a country under responsibility to the people of that country, and to govern one country under responsibility to the people of another, are two very different things. What makes the excellence of the first is that freedom is preferable to despotism; but the last *is* despotism. The only choice the case admits is a choice of despotisms, and it is not certain that

the despotism of twenty millions is necessarily better than that of a few or one, but it is quite certain that the despotism of those that neither hear, nor see, nor know anything about their subjects, has many chances of being worse than of those who do."

Subject to the power of Parliament, the crown has authority to legislate for the colonies and dependencies by Order in Council; this right of the crown, however, ceases to exist after the establishment of legislative assemblies within a colony,[1] and with the exception of the newly acquired possessions in Africa and Oceanica, it is now but rarely exercised. The ordinary method employed in British colonial government is to allow legislation to originate in the various colonies, so that, although its substance may be suggested by the secretary of colonies to the governor by an order, the formal legislative process takes place in the colony itself. This system has the great advantage that measures of legislation are discussed and voted upon by representative colonial officials and residents, who are naturally more familiar with local conditions than are the officials at home. The Colonial Secretary may, of course, use his power to force certain measures of legislation upon a colony, but he could not permanently pursue a policy which would run counter to the opinion and the experience of the local officials and men of representative character.

[1] See Chapter X.

The ordinary legislation for the Indian Empire originates with the provincial legislative councils and with the council of the governor-general. This legislation is, however, reviewed, revised, and given its final sanction by the Secretary of State for India in council, who was given this power by the act of 1858. When a measure has been approved by him, it cannot thereafter be disallowed by resolution of Parliament; for this purpose a special act repealing it would be necessary. Of late there has been a tendency on the part of the Secretary of State to interfere more with the Indian government than was formerly the custom. He has attempted to initiate legislation and to force it upon the Indian administration, contrary to the judgment of the latter, as in the case of the Indian Cantonment Act. The Secretary of State has, moreover, also taken the unusual course of overriding the unanimous opinion and advice of his own council.

Colonial autonomy as it exists in the English colonies does not mean that there must exist popularly elected assemblies with full legislative powers, but that habitually, and as a matter of ordinary practice, a wide latitude is given to the local governors and their councils to deal with affairs under their charge, according to their sound discretion. More than any other government, the British gives free reign to the initiative of trusted local administrators and avoids embarrassing them with rigid orders or detailed instructions, which would often

prove an impediment to vigorous and expeditious action. The home government uses its knowledge and experience so as to warn its servants against dangerous measures of policy, rather than to impose a settled system of action by minute, anticipative rules and instructions.

Legislation for the Dutch East Indies may originate in three ways: either by law of the States-General, by royal decree, or by ordinance of the governor-general. The States-General, which obtained the right to legislate on colonial affairs in 1848, have since then shown a constant interest in colonial administration, though they have abstained from frequent direct interference. The most important colonial law passed by them is the *Regeerings-Reglement* (Government Regulations) of 1854. This is virtually a colonial constitution, or code, — the most successful attempt ever made to state the cardinal principles of colonial government in one legislative act. Though amended in a few details, it still remains the basis of the Dutch colonial administration. Two other measures of great importance are the law of 1870, which provided for the gradual abolishment of the government sugar culture, and the so-called Law of Accountability (Comptabiliteitswet) of 1864. In accordance with the provisions of the latter, the Indian budget is annually fixed by the States-General; and Art. 129 of the Regulations prescribes that the tariff upon imports and exports must also be established by law. All matters which have not been settled by

law of the States-General may be regulated by royal decree, in the form of instructions to the governor-general; but the ordinances of the latter are the main source of the rules and provisions by which the course of administration and government in the East Indies are determined.

The experience of both France and England shows that colonies cannot be profitably legislated for directly by the parliament of the mother country. The control of colonial administration will, in the nature of the case, be almost entirely in the hands of the executive, and while it is likely that with an increasing knowledge of colonial matters parliaments may hereafter be able to exercise a more intelligent control, they should still abstain as much as possible from positive regulation. The prime need of a sound system of colonial politics is a recognition of the fact that the colonies should be given as complete autonomy as possible, and that there should be no attempt to force their laws and institutions into an artificial agreement with those of the mother country. A large colonial empire should embrace a great variety of institutions; and within any given colony the selection of proper laws should be made primarily by men directly familiar with the situation, that is, by representative councils, either elective or appointed by the executive. As the representative of tradition and experience, the home office should be of great value to the various colonial governments, but this advantage would be seriously impaired by

an attempt to enforce metropolitan ideas throughout the empire. In the case of some tropical colonies, notably in India, the duties of government have been found so wearing and exhausting that the governors and other high administrative officials are not permitted to hold office for a long time.[1] In a case like this the home office or council is of special value in preserving traditions and precedents, and acting, as it were, as the memory and experienced judgment of the administration.

Much has been said about the importance of having the colonies ruled in accordance with public opinion. In analogy to Mill's statement, we may say that it makes all the difference in the world whether the public opinion is that of the colony or that of the mother country. The rule of public opinion is a delicate and indefinite matter, even in home politics, and while it will remain the ideal of political action in any well-constituted state, in colonial politics we must not expect too much of it. In other words, we cannot with confidence expect that because public opinion at home has high purposes and noble aims, its interference with colonial affairs will assure good government; for it is impossible that any society should realize the conditions of another social stage sufficiently well to formulate institutions adapted to the latter. Public opinion will, therefore, unconsciously transfer home conditions to the colonies and apply home standards to colonial government. Thus,

[1] In India, five years.

what European or American nation would not indorse the régime of individual property, the strict enforcement of contracts, trial by jury, and the right of appeal? And yet many institutions such as these, which seem essential to our political and civil life, may be actually detrimental when applied in some other social organization, as is shown by the experience of the British in India. The success of a nation as a colonizing power is dependent, therefore, not so much on the abstract value of its own institutions, nor upon the excellence of its general intentions, as upon the character and ability of the men whom it sends out to administer colonial government, and the manner in which it permits these men to adapt their official action to local needs.

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CHAPTER XVI

INSTITUTIONS OF GOVERNMENT IN THE COLONIES

The British policy with respect to colonial administration is to allow the concentration of power and of responsibility in the person of the governor, together with a large measure of actual administrative decentralization within the colony. In other words, while the governor of a colony is given the legal power to control all departments of the administration, as a matter of fact there is rarely any disposition on his part to interfere with the functions of subordinate officials and boards, as long as their administration is efficiently conducted. The relation between the governor and his subordinates is very similar to that between the home authorities and the governor; it is not expressed in the form of minute regulations, forestalling every possible contingency, but rather in a readiness of the superior officials to allow their subordinates to take the initiative wherever possible, and to confine themselves to assisting them by a moderating advice. The system employed by the Dutch is very similar to this, but the French have extended their ideas of centralization and concentrated authority to local colonial affairs. Not only

is the governor of a French colony merely the agent of the central government, controlled in all his movements by detailed directions issuing from the colonial office; but his subordinates are kept by him in turn under constant supervision and control, and have all their movements specifically prescribed by orders from above. As the French governors, moreover, are not given an opportunity thoroughly to identify themselves with the life and interests of any one colony, but are transferred to a new post every few years, they have but rarely developed that grasp of the local situation, that independence of character, and that power of origination and initiative, which has so distinguished the British colonial service.

In his administration of colonial affairs the governor is usually assisted by an executive council, to which there is added in many cases a legislative body. In all but the self-governing colonies, and the few small and unimportant colonies with representative assemblies, these councils are purely consultative or advisory, and the governor may override their conclusions whenever in his judgment they would not subserve the public welfare. However, in the ordinary course of colonial administration it very rarely happens that the governor refuses to give due weight to the opinions of the men who are at the head of the various administrative departments of the colonial government, and of the other representative men who compose the council. In most instances there will, therefore,

be efficient coöperation between governor and councillors, with very little friction. The council is valuable, especially to new governors, in putting them in touch with local affairs; but also more experienced governors, even though they may at times show autocratic inclinations, will usually be glad to repose upon the advice of trained administrators.

The departments of the central government in India are seven in number; namely, foreign affairs, finance and commerce, revenue and agriculture, public works, legislation, and military affairs. The heads of these departments form the council of the governor-general, the foreign department being under his own personal direction. We have already seen in what manner this council is enlarged for the purpose of doing legislative work. The departments of the government of Java are five in number, — finance; public instruction, industries and worship; justice; public works; and the department of the interior. The directors of these departments compose the council of the governor, which must, however, be distinguished from the Council of the Indies, described above. The departments of the army and navy are under the control of their respective commanding officers. The administration of Indo-China is also divided among five head officials, — the commandants of the army and of the navy, the secretary-general, the chief of the judiciary, and the director of customs and excise. It will have been noted that in

the organization of British and Dutch colonial government special attention is given to the productive side of the administration, that is, to commerce, agriculture, and public works; while in the principal French Oriental colony all these branches are represented under the head of the general secretariate.

The question of administrative decentralization is important, especially when we have to deal with large colonies or dependencies, like India, Indo-China, or Java. With respect to India, the English government for a long time pursued a policy of centralization, due to the exigencies of a new government among hostile races, where rapid and uniform action was essential. But since British rule has become more firmly established in India, certain powers of government have gradually been distributed among the local authorities. This policy has been in the ascendant since 1872, when the first step in financial decentralization was taken. Under the arrangement which is called the "provincial contract," a certain portion of the excise and the land taxes, of the assessed taxes, of the stamp duties, and of the forest revenue, are administered by the provincial governments. Thus in the fiscal year 1899 to 1900, out of a net revenue of £40,986,698, there was allotted for expenditure by the provincial governments the sum of £12,337,486. Any surplus which can be netted by a careful administration of their taxes, is under the control of the provincial governments, and may be

expended by them; but the rate of taxation itself is fixed by the governor-general in council. It is now, in general, the settled policy of the central government to avoid interfering with the provincial authorities in matters intrusted to their administration. The decentralization movement of the last thirty years has, however, profited not only the provincial governments, but also the district magistracies, which have gradually attained a most important position in the organism of the Indian government.

In order more fully to understand the policy of decentralization as applied to India, we shall have to consider somewhat in detail the powers of the provincial governments and legislative councils, of the district officers, and of the boards for the management of municipal and local affairs.

A large field of administration and legislation is open to the governments of the Indian provinces; through ordinances of the governor and enactments of the legislative council, the ordinary course of administration and the ordinary legal relations within the province are settled. But the central government of India has reserved to itself the legislative action which affects the general interests of the whole Indian Empire. The provincial governors and councils, therefore, are not empowered to make any laws or ordinances,—

1. Affecting the public debt of India, or the customs duties, or any tax or duty imposed for the general service of the Indian government;

2. Regulating the coinage or currency;

3. Regulating the conveyance of letters, or of telegraphic messages;

4. Altering in any way the Indian penal code of 1860;

5. Affecting the religion or religious rites and usages of any class of Her Majesty's subjects in India;

6. Affecting the discipline or maintenance of any part of the military or naval forces;

7. Regulating patents and copyrights;

8. Affecting the relations of the Government with the native princes or states.[1]

While the governor-general of India may, at any time, through orders addressed to the provincial governors, direct their course of action, the amount of interference from this source is in ordinary affairs very limited, and the central government confines itself generally to the matters enumerated above.

The Indian provinces are divided into districts, which vary greatly in size, but average about 4000 square miles with 900,000 inhabitants. This division is the unit of Indian administration, and the officials at the head of the districts are the most important constituent element of the British administration, as they come into direct contact with the native population, and have to solve on the spot a multitude of the most intricate administra-

[1] The Indian Councils Act of 1861. (24–25 Vict., Chap. 67, Sect. 43.)

tive and legal questions. These officials are known under the title of "collector-magistrate," except in the old non-regulation provinces,[1] where they take the title of "deputy commissioner"; in popular language they are simply called "district officer." The duties of the office are of a threefold character; they embrace (*a*) fiscal administration — the levy and collection of revenue; (*b*) general administration — the care of police, roads, sanitation, education, water supply, public buildings, and other local matters; and (*c*) jurisdiction in criminal and fiscal cases. Much in the fashion of a mediæval king, the district magistrate travels about his realm, holding court wherever he may find himself, amidst crowds of native suitors and officials of subordinate position. In the course of a day he may have to formulate decisions and take action in every possible matter of local government, from the trial of a criminal assault to the review of tax assessments and the enforcement of important governmental decrees. The natives have become accustomed to look upon the district officer as their Providence.

It is certainly true that the strength of the British government in India depends very much

[1] Non-regulation provinces were those regions of India for which laws could be made by executive order, while in the regulation provinces, Madras, Bombay, the Northwest Provinces, and Bengal, methods of legislation had to conform to the Charter Acts. The distinction is now obsolete with respect to the older provinces, except for a few incidental purposes such as the nomenclature given above.

on the character, judgment, and experience of the district officers. They must possess the instincts of rulership, because in the many intricate matters which they are called upon to settle during a day's work they cannot hope to be guided entirely by a knowledge of precedent; they must decide on the spur of the moment, and the only guarantee that their action will be reasonable and expedient must, therefore, be sought in their character and training. The central government has been careful not to dwarf their personality by petty supervision and detailed instruction; it has allowed them to develop to the full their power of originality and initiative, — a fact to which the great flexibility of the Indian administration and its adaptability to the varying local conditions throughout the empire is chiefly due. While a district officer is given great power, he is also held strictly responsible for the results of his administration, and the least sign of corruption or inefficiency would immediately cause his recall and the end of his official career. In its efforts to secure capable officials and honest administration, the government trusts more to character already manifested before the appointment is made, than to any checks upon the officer when in power.

Like the English, the Dutch have also in their eastern possessions followed the policy of relying implicitly upon the character of the officials who act as their local representatives, and of giving them a great latitude of discretionary power. It

has been their uniform practice to support the local officials, and not to degrade them in the eyes of the people whom they are set to govern, by making them painstakingly subservient to the central authority. While the governor-general of Java is legally almost an absolute monarch, controlling the movements and actions of all the public servants within the island, he does not use this power in such a way as to interfere with the sound discretion of the local officials. A resident, or assistant resident, will be given a good deal of scope in his actions, in order that he may adapt himself and his administration to local conditions. The very fact, of course, that the native authorities have everywhere been retained, and that the administration is carried on through them and not directly by the residents, is itself a mark of the decentralizing policy of the Dutch government.

The French, as has already been indicated, have not utilized the possibilities of individual initiative in colonial government to an adequate extent. It is true that the original expansion of the French colonial possessions was due very largely to individual enterprise; but as soon as the government has fixed itself upon a certain territory, there is put into operation a régime of *décrets* and *arrêtés*, by which the central administration binds the hands of the colonial governor, and he in turn shackles every free movement of the local authorities. It must, however, be said that the French have also

at times adopted decentralizing measures, and that, especially within the last few years, they have come to lay some stress upon local initiative. As indications of this we may cite the creation of colonial councils and of communes in most of the colonies. Nevertheless, as far as the administrative officials are concerned, a spirit of self-reliance has never been fostered. The influence has rather been in the opposite direction, causing the local officials in every case to look for instructions from above; while, on the other hand, the central authorities endeavor to foresee every possible contingency, and to provide therefor by detailed regulations.

The number of officials varies greatly with the different nations and under the different systems of colonial government. The French, who establish direct administration as soon as possible, have relatively the largest colonial civil service; the British crown colonies, too, are rich in clerkships. But the dependencies that take the form of protectorates employ a comparatively small number of European administrators. A striking comparison may be made between Cochin China and Java. The former country has only a little over two million inhabitants, the latter almost twenty-eight millions. The numbers of the European officials in these two colonies bear a ratio of 1 to 5400 of the population in Java, and 1 to 1430 of the population in Cochin China; they compare as follows: —

	Java.	Cochin China.
General civil service, higher officials . .	365	290
Judiciary	185	182
Land survey service	62	75
Lower officials	4322	851

The Indian civil service is divided into the covenanted or imperial, and the provincial civil service. The former derives its name from the fact that upon appointment to it the officials are required to sign a contract, containing an enumeration of their general duties.[1] This service is entered through an examination held in London, which is open also to natives of India, though but few of them have taken it. All the more important officials, with the exception of the governors and members of the councils, must be appointed from among the members of the covenanted service. This at present comprises about eight hundred positions, — a small number when we consider the vast population of India. The provincial civil service in India is recruited almost entirely from among the natives, by means also of state examinations which are, however, held in India; numerically it exceeds the covenanted service many times.

The civil service in the French colonies is composed of three elements: the general colonial officials, dependent directly on the ministry of

[1] The form is given in Ilbert, *The Government of India*, p. 593.

colonies, the officials who are lent for a time by the various other departments of the French government, and who continue in a certain dependence upon them, and the purely local officials. By the *sénatus-consulte* of 1866 the expenses of protection and sovereignty were assumed by the mother country, and, consequently, the personnel engaged in the general administration remained directly dependent upon the home authorities, and their salaries were paid largely by the national treasury. As France has now entered upon the policy of requiring her colonies to be self-supporting, it follows that the distinction between the various branches of the colonial service will become less marked and will gradually disappear. The officials of the second class above mentioned retain their rank and pension rights in the department by which they were lent to the colonial service; they may even be advanced in "metropolitan" rank by the home ministry, independent of their colonial position. This double dependence, or rather this dependence of officials upon authorities other than those under whom they are at the time working, is open to much criticism. The rates of payment of colonial officials are higher than in the relatively similar positions in the "metropolitan" service; a fourth or a fifth (*le quart, le quint colonial*) is added to the salary paid in France when an official accepts a colonial appointment.

While the manner of making appointments to the colonial civil service is a question rather of

administration than of colonial institutions, still, it has some aspects which ought to be at least noted in passing. The method of granting admittance to the colonial civil service through state examinations is used in Great Britain, Holland, France, Germany, and the United States. By Great Britain it is employed in appointments to the Indian civil service and to the positions of "Eastern Cadets" in the Straits Settlement and Hongkong. The Dutch colonial service can be entered only through examinations which presuppose a thorough course in a secondary school and the special study of colonial law and administration. The judicial career in the colonies can be entered only by graduates in law of a Dutch university. Admission to the French service is gained either through competitive examinations or by a diploma of the colonial school, entrance to which is granted upon competitive tests. The French service is divided into numerous ranks, — various grades of clerkships and administratorships, and a series of higher offices; promotion is made in accordance with the record of service in individual cases, which is kept in Paris. Candidates for original appointment in the French and the British colonial service must be young men; for the Indian service they must not be over twenty-one years of age. The higher positions in India are filled by gradual promotion on the basis of seniority or efficiency in service.

The system of civil service examinations has

been applied on a large scale also to the natives of the Indian Empire. Though on account of distance and other difficulties they cannot make much use of the opportunity of entering the covenanted service through the examination in London, the provincial service is almost completely in their hands. The system of employing an intellectual test as a qualification for the appointment of natives in India has been much criticised. It has been said that it unduly favors the Bengalee Hindus at the expense of Mohammedans, as the former are of a more purely intellectual bent, and have prodigious memories, so that they are able to retain any amount of unassimilated learning. They lack, however, the qualities of character and personal power which are necessary in government, and by the appointment of thousands upon thousands of Hindu clerks, the Indian government is being turned into a bureaucracy which prefers dry matters of statistics and unending reports to the living facts of social and political activity.

The critics of the system assert that in Oriental countries government must be a matter of personal character and influence rather than of intellectual culture, and that, therefore, the native officials should be selected by prerogative from among men who have the gift of government, and who are, first of all, loyal to the ruling power and in favor of its policy. Although the system of civil service examinations and the spirit of the above criticism belong to two wholly opposing modes of thought,

being the result of views on government which seem almost irreconcilable, it is nevertheless probable that both contain an element of truth and of merit. The selection of the administrators in an Oriental community by a merely intellectual test, and especially by a test based, not upon mastery of the native culture and institutions, but of an alien learning, cannot be expected to result in an efficient service. On the other hand, the adoption of a system of wholly discretionary appointments would but too readily lead to an irresponsible pasha rule, with corrupt patronage and favoritism. However, both systems contain elements that may well be generally adopted, and which are, as a matter of fact, actually used at the present time in Indian administration. The successful passing of an examination does not, by any means, determine a candidate's place in the hierarchy of officialdom. It simply opens the gates, and allows the aspirants to enter upon a first stage of service; it aims to set a general standard of culture which can fairly be demanded of any official in the governmental service. From among the men who have thus entered the service there may be selected, by a gradual process of promoting the more efficient, a group of able and experienced administrators, who will hold the offices of greater responsibility and of wide latitude of discretion.

Russians have often criticised the British for not allowing Indian natives to rise to the highest positions in military command and civil govern-

ment. They regard their own success in assimilating and pacifying Asiatic populations as in no small measure due to their policy of not closing the highest and most honorable offices to natives. While it is neither necessary nor advisable to turn over the majority of such positions to native leaders, the thought that it is possible for natives to rise to the highest honor and dignity, would form a bond between the sovereign nation and its subject peoples which no other could exceed in strength. The Indian people themselves constantly complain of the fact that the road to real honor is closed to them, and look back with a certain longing to the times of the great Mogul emperors, who made Hindus governors of provinces.

The system of transferring officials from the home administration to that in the colonies is not to be recommended, and has not proved successful when tried. Such officials have already acquired set ideas concerning the proper conduct of public administration. They, consciously or unconsciously, try to enforce these ideas, which constitute their available stock of experience, in the colonies, attempting in this manner an assimilation of the colonial to the home government. The policy of the great colonial governments has been in the main to require that the men who are to enter the colonial service shall be young men who have already acquired a good general education, but who have not yet worked themselves into the ruts of any particular office or branch of work,

nor have had their power of originality and initiative destroyed by too long a service in merely clerical positions. Their practical experience, therefore, is gained in the field of their life-work, which they enter without preconceived notions of administrative practice elsewhere acquired. The ideal system for the selection of colonial officials would accordingly seem to be based upon the following principles. A rigid examination should be required testing the general education and a certain amount of special knowledge of the candidate. It should aim primarily to show whether he has intellectual power and grasp rather than merely a retentive memory stored with facts. The candidates should enter upon the actual administration of colonial affairs with minds still young and plastic. Promotions should be made on the basis of faithful and efficient service, and the colonial governor should be given a broad discretion in advancing men of ability who have proved their right to more extended power.

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CHAPTER XVII

MUNICIPAL AND LOCAL GOVERNMENT IN THE COLONIES

It is through the institutions of local government that the people of the colonies can be most efficiently brought to share in the administration of their own affairs. All attempts at self-government in the colonies must begin at this point, and unless the natives can be interested in the concerns of their local and municipal administration, unless they can develop a spirit of communal solidarity, of readiness to take part in the communal business, and of pride in communal progress, there is no hope of successfully introducing the higher institutions of self-government. As in the historic evolution of political institutions, communal life in the city was developed before free institutions covering wider areas, or national states, so in colonial administration it is vain to attempt to build the superstructure before the foundation is securely laid. Thus local and municipal self-administration not only affords a means of ascertaining the capacity of the natives for self-government, but it is also the only road by which to arrive at the establish-

ment of representative institutions of more general scope.

It is, therefore, doubly interesting to review the most important examples of institutions of municipal or communal government in colonial dependencies. In India the first municipality to be established was that of Calcutta, in 1863. It was not, however, until the period from 1883 to 1885 that the system of municipal and local self-government was extensively adopted in the Indian Empire. By the laws passed in these years, municipal committees and local boards were established in large numbers; a strong elective element was introduced into these bodies, and in many cases chairmen were appointed from among the non-official members. We shall first take up the municipalities, and then discuss the district and local boards.

In most of the Indian municipalities a majority of the commissioners are elected by local voters upon a rate-paying qualification. The proportion of voters to the total population varies in the different localities from 1.2 per cent in Madras City, 2 per cent in the Northwest Provinces, and 3 per cent in Madras Province, to 15 per cent in Bengal. Of the people entitled to vote at the elections 50 to 60 per cent ordinarily make use of their right. The following table gives the number of municipalities, and the number of nominated and elected members of the municipal committees in 1899.[1]

[1] Compiled from *Moral and Material Progress of India, 1898 to 1899.*

Name of Province or City.	Number of Municipalities.	Total number of Members of Committees.	Nominated and *ex officio* Members.	Elected Members.
Bengal Province .	151	2,183	1012	1171
Northwest Provinces and Oudh . . .	104	1,613	368	1245
Panjab	148	1,670	856	814
Burma	41	524	415	109
Central Provinces .	52	626	182	444
Assam	14	141	90	51
Madras Presidency .	58	850	478	372
Bombay Presidency	165	2,328	1431	897
Berar	12	171	91	80
Bombay City . . .	1	72	16	56
Madras City . . .	1	31	7	24
Rangoon City . .	1	24	7	17
Calcutta City . .	1	75	25	50
	749	10,308	4978	5330

Nearly all towns with a population of five thousand or more have been granted municipal institutions. The municipal councils in these communities control the questions of streets, water supply, sanitation, hospitals, education, and other matters of a municipal nature.

In twenty-seven of the municipalities of Bengal, the government, in consequence either of the backwardness of the locality or of the intensity of party feeling, exercises the power of nomination which it has reserved to itself in all cases. In Burma, by the municipal act which came into operation in 1898, the elective principle has been extended to

four new towns; little interest, however, was shown in the Burmese municipal elections, with the exception of those at Mandalay. In the remote province of Berar, there is also very little participation in the elections, and usually not more than 12.5 per cent of the electors record their votes.

The government has recently made a very important change in the constitution of the municipal council of Calcutta, by which more power has been placed in the hands of the European representatives and of the executive. By the Calcutta Municipal Act of 1899 it was provided that the number of commissioners should be reduced from seventy-five to fifty, and that only twenty-five of these should be elected by the ratepayers in the wards of the city. In place of the former system of representation of numbers, there has been instituted a representation of interests: the remaining twenty-five commissioners are nominated by the mercantile community, the port conservators, etc. The provincial government has been empowered to require the municipality to take action in case of special need, and the chairman of the municipal commission can act on his own responsibility in certain emergencies, as when serious danger of contagious disease is to be averted. By the same measure some native suburban districts were excluded from the city, so that the net result of the act consists of the shifting of political power in the metropolis of India from the masses of the natives to the industrial classes and the European community.

The administration of the rural regions of India was also in the period from 1882 to 1885 reorganized on the principle of self-government. The general outlines of the system were laid down in a resolution passed by the governor-general in council in 1882, which left the details to be determined in the case of each province by the local authorities. The province of Madras has the most complete system. A number of villages are grouped in a village union, which is represented by the *panchayat*, a council composed of the village headmen and additional appointed or elected members; above this are the *taluk* or division boards, and in each district one district board. The province of Bengal uses the union committees to a much smaller extent, and all the other provinces have simply district and *taluk* boards. In Assam, only the latter are found, and Burma has no local government boards at all. These various boards get their power by a process of delegation from the provincial government to the district boards and to the local unions.

The district boards assist the collector-magistrate in the performance of his administrative duties. They look after the construction and maintenance of roads, irrigation tanks, and water-works, the sanitation and drainage of the district, the establishment of public charitable institutions, and the entire system of primary education; the construction of public buildings, as well as the administration of relief in times of famine, are also

committed to their supervision. In Madras the district boards may propose local taxation; in Bengal they may fix the rate of the road cess within the legal maximum. Outside of these instances the boards have no powers of taxation, their function being rather to administer the funds derived from specific taxes than to make levies. Under the supervision of the district boards the local boards and the village unions assist in administering the affairs and interests already enumerated, within the more limited areas. To what extent the elective principle has been introduced in this system will be shown by the following table:[1]—

Name of Province.	Number of District Boards.	Number of Subordinate Boards.	Total Members.	Elected Members.	Nominated Members.
Bengal . .	38	105	2054	745	1309
Northwest Provinces	48	*	995	639	356
Madras . .	21	461	3728	*	
Bombay . .	23	205	3556	1601	1955
Panjab . .	30	52	2230	961	1269
Central Provinces	17	53	1198	836	312
Assam . .		19	373	141	232
Berar . . .	6	21	529	368	161

As will be seen from this, the elective element is not quite so strong in the local boards as it is in

[1] Compiled from *Moral and Material Progress of India, 1898 to 1899.* * No returns.

the municipal commissions. The district boards are composed partly of members delegated by the subordinate boards, and the chairmen of the latter are in nearly all cases officials. Although the government reports speak favorably of the district and local boards as creating an interest on the part of the people in the affairs of their locality, they also admit that it is often difficult to maintain this interest. Thus, in Bengal, the general elections for the local boards arouse very little attention; the average attendance at the board meetings in 1898 was only five members. In Berar, only eight per cent of the qualified members voted at the *taluk* board elections. From the Central Provinces it was reported that the agricultural class showed more interest in local government than the mercantile class. In the Panjab the workings of the local boards were not satisfactory; in many cases there was not sufficient work to keep both district and local boards employed; hence, fourteen local boards were abolished during 1898, and similar measures are in contemplation elsewhere. It is stated that in this province little or no interest is taken in the elections, and that the people prefer direct appointment. It is interesting to note that in Assam the European non-official members are elected by the managers and proprietors of the tea industry, and that among the representatives or local boards in Bengal there were, in 1898, 925 landowners and planters, and 519 lawyers.

Opinion is divided as to the efficiency of the municipal councils and local boards. The officials of the government in general declare themselves satisfied with the operation of the system, with the exception of a few isolated cases. They claim that it has led the natives to recognize the importance of local administration, and has removed a burden from the shoulders of district officers, whose multifarious duties are still sufficiently distracting. Unfavorable critics of the system urge that in the rural regions it has aroused comparatively little attention, while in the larger cities municipal government is in the hands of the Hindu majority, who care little for the interests of the commercial and industrial classes or of the Mohammedans. The councillors in these cities, it is said, spend most of their time in the fruitless discussion of general theories, while sanitation and other practical matters are neglected. The action of the government in cutting down the elective element, as well as the judgment pronounced by impartial observers, indicate that the system leaves much to be desired. It is claimed that it leads to acrid factional politics, and that the boards are usually inefficient in action unless controlled by the strict supervision of European officials. The natives themselves are said to believe but little in self-government on the representative basis, and to have more confidence in the ability and justice of European officials than in their own countrymen. The government is, however, still resolved to give the

system a fair and complete trial before modifying it in a radical manner.

In most of the other colonies of Great Britain municipal and local self-government has been to some extent introduced. In the West Indian colonies the system has been in long and successful operation. The great Oriental depots of trade, Hongkong and Singapore, are, in a way, models of municipal administration; in their case, however, it is somewhat difficult to apportion credit between the municipality and the crown colony. The municipal council of Singapore is composed of representatives of all the various nationalities and interests of the city; the Chinese of the better classes here show especial aptitude in matters of municipal administration. In the West African colonies, on the other hand, local self-government has been established so far only to a very limited extent.

Throughout the French colonial possessions there have been established communes modelled upon those of the mother country. The municipal law of April 5, 1884, determines the system of home, as well as of colonial, local government, with only some minor modifications in respect to the latter. At the beginning of the Third Republic, communes existed only in the old colonies, Guadeloupe, Martinique, and Réunion; but since then the system has been very rapidly extended. Colonial communes are divided into three classes: first, *communes de plein exercice*, which are entirely

assimilated to the French communes and exist only in the older colonies, in the French regions of Algeria, and in other parts of the French colonial empire where the European element has a predominating influence; second, mixed communes, enjoying only the more rudimentary municipal privileges; and third, native communes (*communes indigènes*), which have a corporate character, but are administered entirely by an agent of the central power. The intention of the government is to advance the communes of a lower order gradually to complete municipal freedom. In Algeria the electoral qualifications enforced among the natives are far stricter than those required of French settlers; moreover, by decree the number of the Mussulman councillors in any commune has been restricted to six, even in the municipal council of Algiers, which has forty members.

The French-Indian communes have a peculiar electoral system. According to the provisions of a decree of September 20, 1899, two lists of voters are made out, the first comprising the Europeans and the natives who have renounced their original status and legal relations, the second composed of the non-renouncing natives. One half of the councillors are elected by each list. The entire area of French Guiana has been divided into communes. The colony of Senegal has four communes "of complete rights," and by decree of September 13, 1891, the gradual estab-

lishment in the interior of a system of mixed and native communes is provided for.

In the French colonial communes of the first order, the régime of manhood suffrage is in force. The communal budget is deliberated upon by the municipal council, and is then rendered executory by the approval of the governor of the colony. The mixed and native communes, while their powers are more restricted, still have a legal personality and a certain administrative autonomy. In general, the French are more inclined than are the English to extend the communal system in their African colonies.

In Indo-China and Tunis conditions are peculiar and entirely unlike those in the other French dependencies. Saigon, the capital of Indo-China, is virtually a French city as far as its administration is concerned, and also in Hanoi and Hai Fong the French element predominates in the municipal councils; but the municipality of Cholon, near Saigon, which was created in 1879, has a preponderance of native and Chinese councillors.

Of far greater interest, however, than the municipalities of French creation in this colony, are the native institutions of self-government in the rural regions. The Anamite commune originally resembled a complete state, self-sufficing, though small in extent, which exercised rights of local legislation, as well as executive and taxing powers. The central government interfered but little and confined itself to the duty of protection; the com-

munes supported it by contributing their quotas of taxation, and they permitted an appeal from their local court to the mandarins. Though the French ideal of centralized administration is not favorable to independent organisms of government, the native communes have maintained many of their former characteristics and functions, especially in Tongking and Anam. They are governed by notables, who are elected by the villagers. The executive duties are performed by some of the younger men among the notables, while the older constitute a board of control and legislation. The popular assembly is called together to ratify the acts of the elders. Disputes are settled by a simple system of arbitration. The democratic character of the commune is, however, only on the surface; the notables are the men of larger property whose influence enables them to enforce their will quite despotically over the weaker members of the local society. After many attempts to supersede the native commune by their own institutions, the French have come to recognize that they cannot dispense with this organ of local government, and it is very probable that they will continue to use it with certain modifications and improvements.

In the protectorate of Tunis the French system of communal government was first introduced in 1884, when ten of the more important towns were given corporate charters. In the smaller towns and in the rural localities, commissions for certain

purposes of local government, especially for the construction and care of roads, have been established. The municipal councils have deliberative[1] authority in communal matters, including taxation, but the government must approve their acts to render them valid. The members of the council are appointed by ministerial decree; the *caid*, or native chief of the town, acts as president, and is assisted by a French vice-president, who has certain powers of control.

It may be said, on the whole, that the application of European methods of local self-government among the native populations in tropical regions is still in its tentative stage. In many cases, unfortunately, the original native institutions of local self-government in these localities have been swept away. Thus the old Indian *panchayat*, which had begun to fall into decay under the Mogul rule, was entirely destroyed by the centralizing tendencies of the British government in India.[2] This is also true, in a large measure, of the local institutions of Algeria and Cochin China.

In their Central Asian provinces, the Russians have been careful to preserve the local institutions

[1] In French public law the term "deliberative" implies the right to vote and to originate measures of legislation, as distinguished from "consultative," which refers merely to the giving of advice. The power to deliberate is, however, less than the power to enact (*statuer*), as the former cannot create a binding rule or order without the sanction of another authority, usually the governor or other executive officer.

[2] The term has recently been revived. See p. 334.

of the native races, and to profit by the inherent ability of Oriental peoples for local self-government. After the conquest of Central Asia, the Russians resolved to suppress the tribal organization as dangerous to the state; but they preserved the native village, which they made the administrative unit. Both the permanent village (*volost*) and the nomad village (*aul*) have a mayor and elders elected by the inhabitants, subject to the veto of the governor. Similarly, the judges of the village courts, which have jurisdiction in petty civil and criminal cases, and the *mirabs*, the officials who allot the water supply for purposes of irrigation, are elected by manhood suffrage. Every village of any importance maintains a primary school. Building thus directly on a foundation of preëxistent popular custom, the Russians have been more successful in their measures of local self-administration than those nations which have attempted to introduce ready-made systems from abroad.

In the cities of Russian Armenia, such as Tiflis, the municipal councils are elected upon a land property qualification. As the property is in the hands of the Armenians, they thus for a time obtained great power, and were encouraged to look forward to complete autonomy. Their agitation to achieve this end did not please the government, and has led it recently to suppress some of the privileges which the Transcaucasian municipalities had previously enjoyed.

The Government Regulations of the Dutch

Indies (Art. 71) provide that "Inland communes elect, subject to the approval of the provincial authorities, their chiefs and administrators. The management of their local affairs is left to the communes, with due observance of the ordinances of the government. Wherever these provisions conflict with the institutions of the people, or with acquired rights, their enforcement is to be refrained from." The origin of the native communes (*desas*) is disputed, but it is quite generally believed that in many regions of Java the right of election did not exist before the reforms of Sir Stamford Raffles and the subsequent Dutch legislation. However this may be, the communes at present show much vitality, and are an important part of the administrative organism. The election of the mayor, or chief (*loerah*), takes place in the presence of a *contrôleur*, who does not, however, interfere except for the purpose of ascertaining whether the successful candidate is not under a legal disability (the use of opium, weakness through disease, or infamy through penal servitude). With the assistance of other local officials — a secretary, night and field guards, and priests — and under the supervision of the *contrôleur* and resident, the chief administers the local affairs of the commune.

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CHAPTER XVIII

COLONIAL LAW

THE administration of law in the colonies is a matter of great complexity, especially in colonies where the native element constitutes a strong majority of the population. In settlement colonies, where the law of the mother country is applied with modifications according to local requirements and conditions, there also arise many interesting problems of legal adaptation. But the administration of law in the tropical colonies, whether protectorates or under direct administration, is a matter of special difficulty on account of the presence of several distinct systems of law.

Although it is a general principle that in colonies of conquest or cession the laws in force at the time of occupation shall be respected by the paramount power, still, a condition of fixedness can nowhere be found in this matter; on the contrary, the tendency is for the national law of the mother country gradually to supersede the original law of the dependency. There are, therefore, innumerable different shades in the relations between the law of the sovereign state and the inherited laws and customs of the subject peoples, due to the gradual introduction of a larger and larger ele-

ment of European law, and the constant tendency to sterilize the lawmaking faculty of popular custom among the natives. The situation is further complicated by the presence of such laws as former conquerors or rulers have imposed, and which have taken firm root among the customs of the dependency. Through the practice of appeal to a high judicial body in the mother country, a certain unity is imparted to the legal systems throughout a colonial empire. The problem solved by ancient Rome through the instrumentality of the Pretorian *jus gentium* again confronts the modern colonial states, and they must choose between respecting the native systems of law, and creating uniformity through legislation and through the decisions of the imperial courts of last resort.

We shall here first consider the elements of native law which are still accorded validity in colonial jurisdictions, and, in connection with this, the systems of alien European law, such as the French or the Roman-Dutch, which continue in force in some of the British colonies. Next we shall turn our attention to the methods by which European law is gradually introduced and made to supersede the native law, in the larger part of the field of colonial jurisprudence. The next chapter will then take up the question of the organization of the colonial judiciary and its relations to the authorities at home, especially to the courts of appeal, but also to the other departments of colonial administration.

In no dependency have questions of native law and jurisprudence been of greater importance than in India. At the beginning of his governorship, Warren Hastings formulated a series of rules on the matter of jural relations. In these he held that, while Europeans were to be judged according to European law, native law was to remain in force and was to govern the dealings and controversies among the various native populations of India. While in the course of time English law has occupied a far greater field than was thus originally contemplated, some important parts of jurisprudence have continued subject to the rules of Hindu and Mohammedan law. They are the general family law, the law of marriage, of adoption, of succession, of partition, and of family trusts. The land law of India constitutes a compromise between Indian and English principles, but all the other branches of law — penal law, the law of civil and criminal procedure, the law of contracts and torts — are based on the English system.

When, however, we have stated that in the matters specified above Hindu law applies among the Hindus, and Mohammedan law among the Mussulmans, the matter is far from being settled, and the greatest difficulty still remains. For to determine what is the rule of the Hindu or of the Mohammedan law upon a certain subject is a matter that will tax the ability of the best of Oriental scholars and jurists. In the first place, both of these bodies of law are of religious origin,

and closely interwoven at all points with religious doctrine and observance. They would, therefore, even if they had uniformity, lack that precision and certainty which can come only after a separation of the religious from the legal point of view. But not only does their association with religion render them complicated; they also differ widely in the various localities and among the various classes of the community. This is true especially of the Hindu law, which an Indian judge has aptly described in the following terms: "Hindu law is a body of rules intimately mixed up with religion, and it was originally administered for the most part by private tribunals. The system was highly elastic, and had been gradually growing by the assimilation of new usages and the modification of ancient text law under the guise of interpretation, when this spontaneous growth was suddenly arrested by the administration of the country passing into the hands of the English, and a degree of rigidity was given to it which it had never before possessed."[1]

While the lower ranks of the Indian judiciary are filled almost entirely by native judges, who are familiar with the principles of native law, although they may not always be able to solve its difficulties, the judges in the courts of appeal, before whom questions of native law find their ultimate adjudication, are mostly Englishmen. While these

[1] Mr. Justice Gurn Dass Bonnerji, cited in *Law Quarterly Review*, Vol. XIV., p. 394.

judges have in general proved themselves ready to enforce native customs within the limits pointed out above, whenever a clear rule could be ascertained, they have at times been somewhat impatient with the confused state of native jurisprudence, and have made a rather liberal use of their power to act according to "equity and good conscience" in matters where the native law is defective and contradictory.

But it is the Judicial Committee of the Privy Council in England, the final court of appeal in colonial cases, which has undertaken to interfere most radically in questions of Hindu law. This tribunal, which is composed of English lawyers, draws its information upon the native law largely from such texts as have found their way into English translations, — for instance, the laws of Manu or the Daya Bhaga. These ancient texts, however, while they are justly looked upon as books of authority, hold somewhat the same relation to actually existing Hindu customs that Bracton holds to modern English law. They are of great value in the historic study of Hindu jurisprudence, but cannot safely be relied upon as an exposition of its present rules, for even the Orient changes, however slowly. On account of the use of such guides, it has repeatedly happened that the Privy Council has reversed the decisions of Indian courts in matters of Hindu law, though they had been based on the interpretation of expert Hindu judges.

The most cherished institution of the Hindus is

the joint family, which insures to its members protection against destitution and want. For the permanence of this institution it is absolutely requisite that the head of the family should not be permitted in any way to encumber or alienate its property; and still the Privy Council applied to the Indian family the rules of European individualistic property, and permitted the creditors of the head of a family to attach its landed domain as security for debt.[1] Small wonder, therefore, that the Privy Council has lost the confidence of the Indian people, who believe that it shows no regard for their dearest interests when the strict enforcement of the money lenders' contract rights is in question. As the Privy Council has had similar difficulties with respect to the laws of Cyprus, it has been suggested that there should be added to the Judicial Committee assessors familiar with the systems of native law that come up before it for final adjudication.[2] We may here note in passing that the French *Cour de Cassation* does not entertain appeals from Algerian tribunals in cases involving Mohammedan law, but that these are finally and conclusively settled by the supreme court at Algiers.

While the Judicial Committee has thus attacked the native system of family property, the Indian legislatures have exerted themselves to fortify the natives against the constantly growing power of

[1] *Girdhari Lall's Case*, 1874.

[2] W. C. Petheram, in *Law Quarterly Review*, Vol. XVI.

the money lender, by strengthening such institutions as the joint family, and by making it more difficult to attach landed property upon execution. It is generally conceded by English authorities that the attempt to introduce a system of individual ownership of land in Oriental countries has been a mistaken policy, and has subjected the economically weaker peasantry to great extortion and ultimate expropriation on the part of the creditor class. The Dutch in Java have consistently refused to adopt this system.

As all the Mohammedans of India follow the Hanafite system of jurisprudence, which is also in use among the Turks, less difficulty has been experienced with their law than with the intricate and inharmonious system of Hindu jurisprudence. Some of the cardinal principles of Mohammedan law have left their imprint on the whole population of India, of which the Mohammedans were so long the rulers. This is true especially of the law of evidence. The Mussulman law rejects circumstantial evidence, and requires direct proof of the facts at issue. In Mohammedan procedure witnesses are not placed under the sanction of the oath, nor are they cross-examined; but in order to be admitted at all they must bear a good character. Only affirmative evidence is received, and the judge is bound by the consistent assertions of the witnesses in the same manner as an English judge is bound by the verdict of a jury. Whenever, therefore, a plaintiff can produce a sufficient num-

ber of reputable witnesses to a positive claim, his claim will be upheld, unless the defendant can prove a positive defence with a similar array of reputable witnesses. The great difficulty which English judges — now that English procedure has been introduced — encounter in India, is that all the witnesses in a case swear only to direct and affirmative evidence, and that as the character of the witness is no longer a guarantee of good faith and the oath has become the only sanction, both parties to an action usually bring a large number of witnesses, who swear to exactly opposite statements of facts. For though the respectable Mohammedan will not himself readily tell an untruth, he has no scruples in hiring those who will. The judge is, therefore, left to guess at the truth, and in many cases the entire process of taking evidence might as well be dispensed with as utterly useless.[1]

The French have, like the English, preserved a certain element of native law in their Oriental and African possessions. In the West African colonies the Mussulmans are given the choice between a French court with a Mohammedan assessor, and the court of the *cadi*, in matters of status, succession, and donations. In Algeria, however, the policy of assimilation has been pursued in a most persistent and thoroughgoing fashion, to the almost utter destruction of native political and legal institutions. Originally the *cadi* was the sole civil

[1] See Baillie, *A Digest of Moohummudan Law*, Introduction.

and criminal judge; appeals could be taken from him to his own court reënforced by a council of jurisconsults (*muftis* and *tolbas*), or to the sovereign. This system was modified in accordance with suggestions made by Prince Napoleon, which were embodied in the decree of December 13, 1866. Civil and commercial, as well as status, litigation among Mohammedans was still to be tried before the *cadi;* but the French courts might be invoked by accord of the parties, or in commercial cases, by the insertion of a clause to that effect in the original contract. Appeals from the *cadi* were, however, now taken to the French tribunals, — to courts of the first instance, or to the court of appeal at Algiers, which was provided with Mussulman assessors. At first, the latter were given a vote in the deliberations of the court; later, however, their function was reduced to a merely consultative one. There was also formed a *Conseil de droit musulman*, consisting of five Mohammedan jurisconsults, to whom questions of religious or status law, coming up in the ordinary courts, had to be submitted for advice. As the *cadis* were paid exceedingly small salaries, and as French jurisprudence was extended rapidly by means of legislation, — as, for instance, in 1873, when all cases involving rights to real property were given to the French courts, — the native jurisprudence has shrunk into an extremely narrow compass, and in the matter of law, as in other respects, Algeria has been artificially assimi-

lated to the mother country. In respect to lesser crimes, however, the natives of Algeria come under the special provisions of the *code de l'indigènat*, which renders them subject to summary trial and punishment for offences outside of the French code, and which is administered without appeal by an inferior order of magistrates imported from France and often lacking all experience of native customs. In 1894 there were all together 32,186 condemnations under this code, which, with a native population of 3,600,000, makes the high figure of nearly one per cent of the total population, or four per cent of the adult males.

In the protectorate of Tunis the whole system of native courts and jurisprudence is still in existence. The *cadis* are the ordinary judges from whose courts an appeal lies to the *Chara*, a court at Tunis which administers the religious customary law, and to the *Ouzara*, a tribunal somewhat similar to an equity court, which grants relief in case of too great rigidity of custom. A mixed court, composed of native and French judges, has been established for the hearing of cases relating to landed property. In the protectorates of Indo-China — Cambodia, Anam, and Tongking — the native judiciary and law have been maintained; but both have been practically destroyed in the colony of Cochin China, although formally Anamite law is still applicable in controversies among natives. In Madagascar the native jurisdiction was organized by decree of the 24th of November,

1898; in native cases, courts are held by French officials, with two native assessors, who, however, have only a consultative voice.

When we consider the process of the gradual introduction of European law into the colonies, the legislation of Germany is specially instructive. According to the colonial law (*Schutzgebiet Gesetz*) of October 17, 1886, as amended July 25, 1900, the emperor exercises the sovereign power in the colonies in the name of the German state. The consular law, which was given its present form on October 7, 1900, applies also to the colonies, and the principles of German law enumerated therein — embracing practically the entire civil and criminal law — are to be the norm of the German courts in the dependencies. The natives, however, are subject to this régime only in so far as they are placed under it by special ordinance of the emperor. The system of European law, as introduced into the German colonies, bears some analogy to the consular jurisdiction exercised in semi-civilized countries; courts are established which have jurisdiction over German subjects and the subjects of friendly powers, as well as over such persons, natives or Europeans, as may voluntarily appeal to them in their litigation. The natives are at first allowed to remain under their tribal customs and authorities, and only gradually, by their own action in appealing to the German courts, or by the action of the execu-

tive in placing them under the jurisdiction of the latter for certain purposes, are they made subject to German law, which is thus changed from the personal law of the European settlers and traders to the territorial law of the colony.

It is in this character as personal law that European law originally entered most of the colonial dependencies in the tropics.[1] Being first applied only to Europeans, it was by a gradual process extended to the natives, until in many cases it has finally become the law of the land. When we examine this process in the French dependencies, we find that in the protectorates of Indo-China French law is at present applied only in certain tribunals in the larger cities, and in the residential courts, in cases where Europeans, or Orientals who are not natives of the protectorate, are interested, while cases which concern only natives are heard by Anamite and Cambodian tribunals according to local custom. In Cochin China, too, this method was originally followed; but the native courts were first superseded by a French administrator, and then, in 1881, French tribunals were organized throughout the province in a like manner as they had already been instituted at Saigon, the capital. The results of this rapid introduction of French law were, however, so unfortunate that it is to be hoped that the French will avoid a similar haste in the protectorates, although it may be true that nothing can prevent the gradual encroach-

[1] See also *Het Regeerings-Reglement van Nederl. Indie*, art. 75.

ment of the European law upon the field of native jurisdiction. In Algeria also, where it has now almost entirely crowded out the native system, the French law entered at first as the personal law of the French colonists.

The Indian Regulating Act of 1773, which first systematized the administration of British India, provided for only a consensual jurisdiction of the British courts in the litigation of natives, in actions on contract where it had been specially agreed upon between the parties to submit eventual differences to a British court. From these small beginnings, the English law, if we except the narrow field held by Hindu and Mohammedan jurisprudence, has become the law of the land in British India, through a series of important legislative enactments, as well as through the course of adjudication by the English judges of Indian courts. The great undertaking of Indian codification was begun by Lord Macaulay in 1833, but it was almost three decades before the results of his labor were actually adopted in the form of legislation. The following is a list of the principal Indian codes and acts, which constitute perhaps the boldest experiment recorded in the history of legislation, an attempt to supersede the customary law of a great complex of populations, confused, intricate, and multifarious, by a uniform system conceived in broad and simple outlines.

1859. The Code of Civil Procedure.
1860. The Indian Penal Code.

1861. The Code of Criminal Procedure.
1865. The Indian Succession Act (this does not apply to Hindus, Mohammedans, or Buddhists; and by executive order other classes may be exempted from its operation).
1870. The Hindu Wills Act (this reserves all the rights of the Hindu joint family).
1872. The Indian Evidence Act.
1872. The Indian Contract Act.
1881. The Probate and Administration Act.
1881. The Negotiable Instruments Act (this does not interfere with the *hundis*, the native bills of exchange).
1882. The Transfer of Property Act (many exceptions to this are allowed in matters of local custom and of agricultural leases).
1882. The Indian Trusts Act (which does not apply to Bengal or Bombay, and respects the law of the *wakf*, the Mohammedan family trust).
1890. The Guardian and Wards Act.

This system of codification has been often attacked on the ground that it substitutes for the flexibility of a customary law, with its adaptability to local needs, a rigid system of statutory legislation, chiefly of alien origin. But the most competent judges, on the whole, are inclined to view this great body of law in a favorable light. While inevitably it has interfered in some respects with native customs and ideas, it is not too detailed to be inflexible, and at the same time is definite and firm enough to form a safe instrument for the maintenance of law and ordered relations. While the application of European contract law and individualistic ideas of property to Oriental com-

munities is a measure of more doubtful expediency, it is generally conceded that the Penal Code has been a potent factor in bringing about the establishment of order and civilized government in the Indian Empire.

The advisability of codifying the native laws has often been urged, even by Mohammedans like Sir Syed Ahmed Khan; it has, however, thus far appeared decidedly unwise to attempt such an undertaking. Not only would it be exceedingly difficult to draw up a satisfactory summary of the customary law of the natives, but as this summary would inevitably conflict with the actual customs in many localities, it would create great popular dissatisfaction, and would lead the natives to fear governmental interference with their most cherished institutions of family and status. Much farther removed is the possibility of abolishing this law and displacing it by European rules; on account of its close connection with religion, the system could be destroyed only if the religious beliefs of the whole community could be changed.

In Egypt, in the year 1876, the various consular courts which were administering their national law to subjects of their respective countries were united to form the system called Mixed Courts. Before these tribunals at the present time all litigation in which foreigners are interested comes for trial. The native Egyptian courts were remodelled in 1884, and a civil code, based upon the Code Napoleon, was adopted for their guidance. As

the Mixed Courts also in their decisions follow chiefly the French law, it has come to pass that this system of jurisprudence practically governs Egyptian judicial affairs, among both foreigners and natives. Though English judges have been introduced into the Egyptian courts in considerable numbers, this ascendency of French jurisprudence has not as yet been superseded.

It remains for us briefly to notice the systems of European law other than English which are in force in some of the British colonies. This alien law is of varying authority: in some colonies, such as Mauritius, where originally the French law prevailed, it has been almost entirely superseded by subsequent legislation and by adjudications based upon English precedents; while in others, for instance in South Africa, it has remained more completely the basis of the local jurisprudence. The principal British colonies in which alien laws are in force are Quebec, which has for its common law the French Custom of Paris; the islands of Mauritius and St. Lucia, where the French law has left its impress; and the colonies of Ceylon, British Guiana, Cape Colony, Natal, and New Guinea, in which the Roman-Dutch law is still in force. The legal system of Cyprus is composed of the Mohammedan Sacred Law and the *Majélé*, the Turkish civil code of 1869. In the case of Ceylon, a codification of native Mohammedan customs was undertaken in 1806. This island has, therefore, a peculiarly intricate jurisprudence, the natives being

governed either by the Mohammedan or the Hindu customary law in matters of succession and status, while the common law is Roman-Dutch in origin with a superstructure of British legislation. It is a prominent characteristic of the English as a colonizing nation that they have never attempted, merely for the sake of assimilation and the extension of their national institutions, to force their system of law upon their dependencies. Wherever another civilized system had already gained a foothold, it was not uprooted nor disturbed; and only in the case of India, where conditions were in a state of such confusion that radical measures seemed necessary, did they go to the length of creating a comprehensive system of codified law.[1]

[1] For references, see the end of the next chapter.

CHAPTER XIX

THE ORGANIZATION OF COLONIAL COURTS

In the colonies of Great Britain the judiciary is generally separate from the administration, and the judges enjoy a high degree of official independence; the union of judicial and other functions in the hands of the Indian district officers is exceptional. The judges in the colonies with responsible or representative government are removable only upon address of the local legislature to the governor. In cases of amotion of judges in the crown colonies the governor and council take the initiative; questions of this nature are referred by the sovereign to the Judicial Committee of the Privy Council, with which the colonial secretary sits on such occasions. The institution of the jury in criminal cases is used in nearly all of the crown colonies, as well as in parts of India. In some cases the form of the jury is slightly modified, as in the Gold Coast colony, where it consists of seven men.

The system upon which the Indian courts are organized varies in the different provinces; but in the older provinces it is fairly uniform. In Bengal, Bombay, Madras, and the Northwest Provinces there are High Courts sitting in the provincial

capital; they act as courts of appeal in both civil and criminal cases. In criminal cases they are courts of last resort, while in civil cases an appeal lies from their decisions to the Privy Council. The High Courts are composed partly of barristers or advocates from Great Britain and Ireland, partly of members of the Indian Civil Service, who have acted at least three years in the capacity of district judges, and partly of men who have sat as judges in the Small Cause Courts for at least five years, or have been pleaders of a High Court for at least ten years.

The civil courts below the High Court are the following: the court of the district judge, which has original and appellate civil jurisdiction, but acts chiefly in the latter capacity; the subordinate judges, who have only original civil jurisdiction; and the *munsifs*, whose jurisdiction is limited to suits in which the value of the matter in controversy does not exceed one thousand rupees. In addition to these there are established a number of Small Cause Courts which hear cases involving smaller amounts. As there is no appeal from the decisions of these latter courts, they are of far greater importance than their name would indicate. The Indian system has been much criticised on account of the ease with which it permits appeals and of the consequent dilatoriness and cost of proceedings under it, which make it impossible for the poorer classes to get justice. The government has to choose between the two alternatives of either

establishing a practically dictatorial magistracy for petty cases, or controlling the lower courts by a system of appeals, which the Oriental populations, who prefer speedy, if rough-hewn, justice, do not understand nor appreciate. For this reason the Small Cause Courts have been established; they are composed of judges whose character, ability, and training, ranking far above that of an ordinary petty magistrate, are such that a jurisdiction without appeal can safely be intrusted to them. By local acts such as the Dekkan Agriculturists Relief Act of 1879, methods of arbitration of small disputes before village *munsifs* have been established, and it is believed that more than half of the litigation can thus be intercepted.[1] One of the greatest problems in Oriental countries is how to make the administration of justice speedy, cheap, and accessible, without robbing it of its character of impartiality and adherence to the law.

The lower courts of criminal jurisdiction in India comprise, in the first place, the Courts of Session. Their territory of jurisdiction embraces one or several districts, and they are composed of district judges who are assisted, according to local regulations, either by a jury or by assessors. Below these courts, the district magistrate exercises original and appellate criminal jurisdiction, within each district. Under him are several ranks of assistant and honorary magistrates, with varying grades of

[1] *Moral and Material Progress and Condition of India, 1898 to 1899*, p. 42.

jurisdictional power. It is often urged that the office of the collector-magistrate, in whose hands so many administrative and judicial functions are united, has been outgrown by the development of India. Originally, when the functions of government were simpler, there was undoubted virtue in the concentration of all local authority in the hands of a responsible official; but with the growing complexity of local administration it has become a debatable question whether the judicial functions of the district magistrate should not be separated from his administrative attributes. In considering the advisability of such a change, it must, however, be remembered that Oriental populations are accustomed to the union of executive and judicial functions in the hands of one ruler, and that the respect in which they generally hold the district officer might suffer serious abatement were he to be deprived of judicial power and become a mere fiscal officer, or tax-gatherer.

The district judges in India are members of the Indian covenanted civil service, which they enter through examinations passed in England. After a few years of service as assistant to the collector-magistrate, during which time he becomes familiar with the activities of local government and with criminal jurisdiction, the young official has to elect whether he will follow the judiciary, or the administrative, side of public service, much in the same manner as the German *Referendar*. The district judges have, therefore, at the time of their

appointment usually much less knowledge of the civil law than the native judges of the inferior courts from which they hear appeal cases. For this reason it has often been suggested that the higher branches of the judiciary should be filled directly from the Indian bar, or by advancement from the lower courts. Of course natives of India theoretically have the opportunity of entering the higher civil service by competition through examinations in England. On account of distance and expense, however, comparatively few can actually do so, and it is only the inferior ranks of the civil and judicial administration that are filled by the natives. While they outnumber the European officials by a ratio of over a hundred to one, their share in real authority is but small.

The Egyptian judiciary is at present in a somewhat chaotic condition. Judges of all nationalities sit in the mixed courts, while in the native courts the Egyptian judiciary is being supplemented by increasing numbers of English judges. The British councillor to the judiciary has, moreover, introduced the English practice in certain matters, such as, for instance, the holding of court by single judges in place of the more numerous tribunal after the French model, and the establishment of judicial circuits. English councillors have been placed in the native courts of appeal, and the British authorities supervise the entire native magistracy. In 1898 a British official was appointed chief prosecutor, so that the enforce-

ment of the criminal law is now completely controlled by the agents of Great Britain.

By the Government Regulations, the judiciary in Java is rendered practically independent of the administrative department. Though in general the powers of the Javanese government are centralized and almost absolute, the judges are protected against interference. As they frequently attempt to extend their jurisdiction, friction between them and the other departments is not uncommon. There are separate courts established for hearing the litigation in which Europeans are concerned. The cases of the natives are tried by the *Landraden* (country courts), which have a European president and secretary, with native chiefs and a Mohammedan priest of the region as assessors. Native courts for the trial of petty actions are established in every regency and in every district. The regency courts are presided over by the regent, or by the *patih* (assistant regent) the district courts by the *wedana*.

The judges in the German colonies can be placed "at disposal" (*zur Disposition*) at any time; in other words, they can be suspended from active service, and hence do not share the immunity of judges in the mother country. However, while they exercise their judicial functions they are independent, though the administration is not carefully distinguished and separated from the judiciary in the colonies.

The judiciary of French colonies differs from

that of France itself in several important respects In the first place, the judges are removable by the executive; then, the colonial courts have in many instances only one magistrate, while the tribunals in France are composed of at least three. The jury in criminal cases is used only in the Antilles and Réunion; in the other colonies the court is assisted by assessors, who are either functionaries, or, more generally, notables selected from among the European settlers or the native population. Justices of the peace form a very important part of the French colonial judiciary, and are often given extended powers (*Juges de paix à compétence étendue*). They are useful especially in dealing with litigation in which the more formal machinery of the higher courts would be too expensive and cumbersome. Appointments of colonial judges, with the exception of the justices of the peace, must be countersigned by the Minister of Justice as well as by the Minister of the Colonies.

The old French colonies — the Antilles and Réunion — need detain us but little, as their judicial organization is almost completely assimilated to that of the mother country; but while this is the aim of the French government with respect to the other colonies also, the systems there in vogue still vary considerably on account of the different degrees of development which the establishments have reached. Indo-China has a court of appeals composed of three chambers, two of which sit at Saigon and one at Hanoi. In the

province of Cochin China the tribunals have been practically assimilated to those of France, with the exception that the place of the jury in criminal cases is taken by assessors, who are either Europeans or natives, according to the nationality of the accused. In the three protectorates of Indo-China there have been established tribunals of the residencies, civil courts of the first instance, and provincial criminal tribunals, all for the trial of cases concerning Europeans and other non-natives.

The judiciary in Algeria is composed of a court of appeals sitting at Algiers, courts of assizes for the trial of criminal cases with a jury, civil courts of the first instance with a Mussulman assessor, justices of the peace with ordinary or extended jurisdiction, and magistrates for the trial of petty criminal cases. The juries in Algerian criminal courts are composed of Europeans, even in trials of natives. As there exists a strong race hatred, it is not surprising that these juries have often shown inexcusable severity. Certainly a mistaken policy of assimilation could not go much farther than to submit accused natives to the judgment of a jury that in most cases will be hostile to them from the beginning.

The jurisdiction of French courts was introduced into Tunis in 1883, taking the place, by treaty arrangement, of the consular courts of foreign nations existing in the protectorate at that time. Courts of the first instance have been established

at the city of Tunis and at Susa, the decisions of which are reviewed by the court of appeals at Algiers. The distance from Algiers has caused a demand for the establishment of a court of appeals at Tunis; but as the French colonists fear that such a court would be too much under the control of the Resident, and hence unfavorable to their special interests, they would prefer that the court should consist of a delegation from the tribunal at Aix, which formerly heard appeals from the French consular court in Tunis. In criminal actions against Frenchmen or other non-natives, the tribunals are assisted by six assessors who are selected from the French or other nations, according to the nationality of the accused, provided, however, that in all cases three shall be French. For the hearing of minor cases, justices of the peace have been appointed at all the larger centres. All actions in which only natives are parties continue to be tried by the native courts. In the African colonies of lower political organization, judicial functions are usually exercised by officials of the administration. But in August, 1901, the French government decided to create, in its colonies of Dahomey, Guinea, and the Ivory Coast, a judicial system separate from the administrative department, except in the matter of penal offences committed by natives.

We still have to consider the most interesting topic of final appeal from the colonial courts to a tribunal in the mother country. This matter can

be illustrated best from the experience of Great Britain, where the Judicial Committee of the Privy Council forms the court of appeals for colonial cases. The sovereign of England, as the ultimate fountain of justice, may be appealed to in any case where fundamental rights are denied to any citizen or subject of the British Empire. This prerogative power of administering justice has been gradually given over to various tribunals, such as the Court of Chancery, or the House of Lords. The residuary authority has generally been exercised through the Privy Council or committees composed of its members, such as the former Court of Star Chamber, and the present Judicial Committee. When, therefore, subjects of the sovereign in the colonies appeal to the head of the state for direct interference, it is but natural that their appeals should be assigned to the Privy Council in order that the sovereign might be advised thereon before acting. The Judicial Committee of the Privy Council is not, strictly speaking, a court, but rather exercises a portion of the royal prerogative. This question becomes important in determining whether the Judicial Committee is bound by its former decisions, like the House of Lords in its capacity as a court of law. While the Judicial Committee has been accustomed to adhere to precedent, there is no doubt that it could, as far as constitutional law is concerned, depart from a rule laid down in a former case. The personnel of the Judicial Committee consists of promi-

nent English judges, of one or two members that have been judges in the dependencies, and of the judges of self-governing colonies who are also members of the Privy Council, — that is, usually, the chief justices of Canada, Cape Colony, and Australia.

Appeal lies to the Privy Council from the courts of appeal in the crown colonies, and in the smaller self-governing colonies, under conditions fixed by Orders in Council. Ordinarily it is provided that no case in which an amount of less than five hundred pounds sterling is involved shall be so appealed, although the value limit is not uniform and is entirely absent in the case of some colonies. Appeal from the High Courts of India will lie in civil cases involving not less than ten thousand rupees. In criminal cases, however, appeal can be had only with the permission of the respective High Court itself.

The two great self-governing colonies of Canada and Australia have assumed a somewhat privileged position with respect to appeal to the Privy Council. Still, the sovereign has refused to relinquish entirely the power of hearing an appeal from any subject of the empire, and it is indeed one of the few remaining institutional marks of imperial union that such an appeal can be taken.

Appeal does not lie from the Supreme Court of Canada to the Judicial Committee, except by special leave of the court itself. Yet a direct appeal may be taken from the supreme courts of the

individual Canadian provinces, so that a person whose suit has been settled in one of these courts has the option of appeal either to the Supreme Court of Canada or to the Judicial Committee; but he forfeits his right to invoke the latter by appealing to the former. The colonies of Australia have always been restive under the idea of having their courts subject to an imperial court of appeals. This is true especially of New South Wales, which established by statute a minimum value limit of two thousand pounds for appeal to the Judicial Committee, although the orders in council had fixed the amount at only five hundred pounds. By the Commonwealth of Australia Constitution Act of July 9, 1900, it is provided that no appeal "shall be permitted to the Queen in Council from a decision of the High Court upon any question howsoever arising as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any state or states, or as to the limits *inter se* of the constitutional powers of any two or more states, unless the High Court shall certify that the question is one that ought to be determined by her Majesty in Council." It is also provided that the Australian parliament may further limit the right of appeal, but that such a bill would have to be especially reserved by the governor-general for the pleasure of the sovereign. The relations that are thus exempted from appeal embrace all the important questions of internal constitutional law; and as most important cases

before the High Court would involve considerations of this kind, the number of Australian appeals to the Judicial Committee will in the future be even smaller than in the past.

In general it may be said that the Judicial Committee of the Privy Council is far from having realized, or even having attempted to realize, the character of an imperial supreme court. While many important cases have come up before it, and it has been constantly engaged in the adjudication of appeals from all parts of the empire, its relations with any individual colony have not been constant enough to enable it to exert a steady stream of influence upon colonial jurisprudence. The distance of the court, the expense involved, and the uncertainty of the outcome, have resulted in discouraging the regular invocation of the jurisdiction of the Privy Council. In individual cases, however, it has been able to assist in upholding the idea of uniformity in the law of the empire, and it has at least reminded the colonial tribunals of the possibility of conforming to a simple and approximately universal standard.

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INDEX

Abdur-rahman, Ameer, 132.
Abyssinia, 74.
Aden, 72, 132.
Afghanistan, 53, 131.
Agents-general of colonies, 261, 266, 290.
Agricultural colonization, 85.
Aix, tribunal of, 371.
Alexander the Sixth, Bull of, 99.
Algeria, 22, 221, 286, 301, 351; communes in, 339; councils in, 191, 204 *sq.*; judiciary of, 370; military territory, 205; separate budget, 207.
Amur Province, 53.
Anam, 116, 341; native law in, 357.
Anamite commune, 340; institutions, 115.
Antigua, 179.
Antilles, French, 185, 198 *sq.*, 369; councils in, 201 *sq.*
Appeal, in cases of native law, 350; to the Judiciary Committee of the Privy Council, 371.
Appointment of Indian judges, 367.
Arab impost in Algeria, 205.
Arbitration of small disputes in India, 365.
Arrêté, 174, 190, 298.
Asia Minor, 106.
Assam, 334, 336.
Assent, royal, 245 *sq.*
Assimilation, policy of, 186 *sq.*, 211, 279, 353.
Australia, appeal to the Privy Council, 374; Commonwealth, 256; federation in, 256 *sq.*; High Court of Justice, 257.
Autonomy, colonial, 306.
Avebury, Lord, 271.

Bahamas, 181.
Baluchistan, 53, 132.
Barbados, 181.
Barbour, Sir David, report of, 217.
Baroda, 123.
Barton, Mr. Edmund, 262.
Beira, 162.
Belgium, king of, 159, 160.
Bengal, local government in, 335; municipalities of, 332; presidency of, 256.
Berar, 336.
Bermuda, 181.
Bhopal, 119, 127.
Bibliographies, 24.
Bismarck, 10; ideas on colonization, 138.
Borneo, 53.
Bowen, Sir George F., 249.
Brazza, Count de, 53.
Bright, John, 7, 253.
British colonial commerce, 64.
British Colonial Office, 289.
British colonial policy, 311.
British East India Company, 146.
British foreign affairs, 125.
British Guiana, councils in, 180, 184.
British Imperial League, 261.
Brooke, Rajah, 50, 53.
Brussels Conference of 1890, 101.
Budget, Dutch Indian, 307; French colonial, 340.
Burke, 120.
Burma, 332.

Cabot, Sebastian, 99.
Cadi, 353.
Caid, 341.
Caisse de la dette, 134.
Calcutta, 321, 333.
Cambay, letter to Nawab of, 122.
Cambodia, 116.
Campbell *vs.* Hall, 183.
Canada, 31, 65, 86; appeal to the Privy Council, 373; federation in, 352; preferential tariff, 262; rebellion of 1837, 215; representative institutions in, 213; responsible government in, 239 *sq.*; Canada and the West Indies, 255.
Cape Colony, 64, 72, 240; and federation, 258.
Capitalistic expansion, 81.
Carnarvon, Lord, 258.
Central Asia, local government in, 342.
Ceylon, 227; councils, 178.
Chamberlain, J., 217, 231, 262, 267, 268; on relations of colonies to Great Britain, 4, 66.
Chambers, colonial representation in, 194, 210; of Commerce of the Empire, 268, 271.
Chara, 355.
Charte Coloniale of 1833, 187.
Chartered companies, 145.
Chernaieff, 54.
Child, Sir Josiah, 52.
China, 141; spheres of influence, 106.
Chinese, and municipal government, 338; in the tropics, 34 *sq.*
Cholon, 340.
Church in colonies, 273.
City-state in political evolution, 225.
Civil service, examination, 323; Indian, 303; in French colonies, 321; law, 291.
Clarke, Sir Andrew, 52, 129.
Classification, of colonial business, 283; of colonies, 19.
Cleruchies, 14.
Climate and colonization, 35.
Cobden, Richard, 6.
Cochin China, 40, 115, 320; council in, 192, 203, 355; French law in, 357.
Code de l'indigènat, 206, 355.
Codification, in India, 358; of colonial law, 359 *sq.*
Colbert, 31.
Collector-magistrate, 317, 334; in India, 365.
Colonial council, German, 288.
Colonial exhibition, 284.
Colonial Institute, 294.
Colonial Office, British, 288; French, 280 *sq.*; German, 287.
Colonial Stock Act, 269.
Cambon, Governor-general, 206.
Commerce, 57 *sq.*; colonial, 271; colonial statistics, 62 *sq.*; tariff in Dutch Indies, 307.
Commercial privileges, 7.
Commonwealth of Australia, 374.
Communes, French colonial, 338.
Communication, 71 *sq.*
Companies, chartered, 145 *sq.*; of New France, 32.
Concessions, 90; in French colonies, 202.
Congo, *see* Kongo.
Constant, Baron D'Estournelles de, 212.
Consular Constitution of 1789, 187.
Consular jurisdiction in colonies, 356.
Contract laborers, 35.
Contract rights, infringement of, 351.
Contracts, government, 203.
Council of Dutch Indies, 175.
Councils, executive, 311; legislative, 176 *sq.*; of government, 174 *sq.*
Cour de cassation, 351.
Courts, colonial, 363 *sq.*
Covenanted civil service, 321.
Credit, colonial, 270.
Cromer, Lord, 50, 134.

Crown agents, 290.
Crown colony, 167 *sq.*, 228.
Customs union, 258, 262.
Cyprus, 73, 351, 361; council in, 180.

Daya Bhaga, 350.
Decrees, system of, 297.
Defence, colonial, 272.
Definitions, 13, 16.
Deliberative powers of French councils, 342.
Dent, Sir Alfred, 149.
Departments of colonial government, 312.
Dependency and colony, 15.
Derby, Earl of, 4, 181, 183, 216, 218.
Desa, 344.
Dilke, Sir C. W., 170.
Directors in Dutch Indian government, 312.
Disraeli, 8.
District boards in India, 334.
District judges in India, 366.
District officers, Indian, 317, 365.
Doumer, Governor-general, 212.
Dufferin, Lord, 249.
Durham, Lord, report of, 214, 239, 242, 252.
Dutch colonial government, departments of, 313.
Dutch colonial legislation, 307.
Dutch colonial ministry, 288.
Dutch colonial policy, 311.
Dutch colonial system, 58, 175, 319.
Dutch colonies, communes in, 344; judiciary in, 368.
Dutch East India Company, 146.
Dutch, in Java, 136.

East Africa Company, 139, 148.
East India Company, 39.
Egypt, 72, 102, 133, 140, 223; international institutions, 134; judiciary of, 367; system of law in, 360; irrigation, 134.
Elgin, Lord, 215, 246.
Emigrants' information office, 294.
Emigration, French, 31; German, 30; Greek, 30; Irish, 30.
Empire, Second, and the colonies, 188.
Eritrea, 77.
European law in colonies, 356.
Evidence, law of, in India, 352.
Examinations for civil service, 323.
Exploitation colonies, 17.
Extra-territorial jurisdiction, 125.

Fabri, 19.
Faidherbe, 10, 53.
Family law, 351.
Federated Malay States, 130.
Federation, colonial, 251.
Ferry, Jules, 114.
Financial management of chartered companies, 156.
Financial relations of colonies, 270.
Foreign office and colonial affairs, 287, 293.
Franklin, Benjamin, 186.
French classification of colonies, 19.
French colonial commerce, 63.
French colonial ministry, 281.
French colonial policy, 10, 311.
French colonial system, 170, 173, 185, 280 *sq.*
French colonies, communes in, 338; judiciary in, 368; native law in, 353 *sq.*
French commercial colonization, 59.
French exploration, 51.
French Indies, 192, 203; communes in, 339.
French in Egypt, 134.
French law, in colonies, 357; in British colonies, 361; in Egypt, 360.
French missions, 40 *sq.*
French municipal law of 1884, 338.
French restrictive commercial policy, 61, 69.

French Superior Council of the colonies, 285.
French West Indies, 185.
Frere, Sir Bartle, 50, 258.
Froude, J. A., 258.
Functionaries, in French colonies, 302, 320; in Java, 320.

Game preserve in Africa, 101.
Garstin, Sir William, 136.
Geographical exploration, 50.
German commercial competition in British colonies, 67.
German colonial companies, 138, 160.
German colonial office, 287.
German colonial policy, 10.
German colonies, judges in, 368; jurisdiction in, 356.
German exploration, 51.
Gibraltar, 73.
Gilbert, Sir Humphrey, 39.
Gladstone, 4, 8, 302.
Goldie, Sir G. T., 50, 52, 154, 231, 234.
Government publications, 25.
Governor, functions of, 172 *sq.*, 311; in self-governing colonies, 245.
Grenada, 183.
Grenville, Lord, 149.
Grey, Lord, 261.
Guadeloupe, 186 *sq.*, 199, 296.
Guiana, French, 186 *sq.*; councils in, 191.
Guyot, Yves, 8.

Hanafite jurisdiction, 352.
Hanoi, 340.
Harris, Lord, 122.
Hastings, Warren, 52, 348.
High Courts of India, 363.
Hindu law, 348.
Hindus, 34; as civil servants, 326; of Mauritius, 182; and local government, 337.
Hinterland doctrine, 99, 104.
Hofmeyr, Mr., plan for customs union, 261.
Hongkong, 74, 76, 178, 222, 338.
Hudson Bay Company, 147.
Hut tax, 230.
Hurard, Creole leader, 200.

Imperial federation, 260.
Imperial Federation League, 206.
Imperial Institute, 294.
Imperial Service Troops, 124.
India, 72; administration in, 316; appeal to the Privy Council, 373; civil service examinations in, 323; codification in, 358; courts of law, 364; district administration, 317; district judges, 366; finance, 314; financial decentralization, 314; government, 21; High Courts of, 363; legislative councils, 177; local systems in, 348; Mohammedans of, 223; municipal government in, 331; National Congress of, 223; native troops, 124; native states of, 118; parliamentary interference with government of, 302; powers of central government, 316; provincial administration, 316; provincial legislative council, 306; provinces of, 256; Regulating Act of 1773, 358; Secretary of State for, 292; as a federal state, 256.
Indian Cantonment Act, 306.
Indian family law, 351.
India Office, 291.
Individual and state in colonization, 49 *sq.*
Indo-China, 63, 70, 114, 369; French law in, 357; local government in, 340.
Industrial colonization, 81 *sq.*
Insecurity of investments, 84.
Inspection, colonial, 285, 294.
Internal colonization, 21.

International action and law, 101, 109.
International institutions in Egypt, 133.
International Kongo Association, 159.
Interpellation on colonial questions, 301.
Investment colonies, 17.
Investments in colonies, 82 *sq.*
Isaac, Senator, 199.
Islam, and Christianity, 46; in Java, 137.
Italian missions, 42.

Jaluit Company, 161.
Jamaica, councils in, 182 *sq.*, 184, 216, 222.
Jameson, Dr., 152.
Japan, 141.
Java, 136, 175, 313, 319, 320; communes in, 344; judiciary in, 368.
Joubert, 51.
Judges, appointment of Indian, 367.
Judiciary Committee of the Privy Council, 372.
Juries in colonies, 370.
Jury system, 363, 369.
Justices of the peace, in French colonies, 369.

Kamerun, 139.
Kiao-chau, 75, 175.
Kipling, 270.
Kitchener, Lord, 74, 135.
Kongo Act of 1885, 99.
Kongo Association, 159.
Kongo conference, 100.
Kongo Free State, 101, 103, 112, 160.
Kongo free trade area, 100.
Kurapatkin, 54.

Labouchere, Mr., 50.
Landraden, in Java, 368.
Lapse, doctrine of, 120.
La Salle, 51.
Law in colonies, 346 *sq.*
Leeward Islands, 179, 254.
Legislation, 296; colonial, Dutch, 307; for colonies, by Orders in Council, 305.
Leontieff, Captain, 51.
Leroy-Beaulieu, P., 9, 212, 299.
Levant, missions in, 41.
Lewis, Sir G. C., 16, 170, 219.
Liberalism and colonial policy, 5 *sq.*, 253; French, 8.
Livingstone, 50.
Lo-bengula, 112, 150, 157.
Local government in colonies, 330 *sq.*
Louis XIII., 186.
Louisiana, 75.

Macaulay, Lord, 358.
MacMahon, 198.
Madagascar, 355.
Madras, local government in, 334.
Malay States, 129, 259; Guards, 131.
Manchuria, 53.
Mandalay, 333.
Mandarinate in Anam, 115, 117, 341.
Manhood suffrage in French colonies, 189.
Manila, 77.
Manipur, 123.
Mansfield, Lord, and colonial law, 183.
Manu, law of, 350.
Martinique, 186 *sq.*, 201, 296, 301.
Matabeleland, Order in Council of 1895, 153.
Matabele War, 151.
Mauritius, 182, 184.
Mayo, Lord, 256.
McKinnon, Sir William, 158.
Merchandise Marks Act, 67.
Merchant Adventurers' Company, 145.

Migration distinguished from colonization, 15.
Military advance, 53.
Mill, John Stuart, 304, 309.
Mining concessions in Rhodesia, 158.
Minto, Lord, 118.
Missions, 38 *sq.*, 155; political use of, 43.
Mixed courts, in Egypt, 134, 360, 367.
Mohammedan law, 348, 352; codification of, 360, 361; in Algeria, 354.
Mohammedans in India, 223.
Monopoly, colonial, 7.
Morocco, 77.
Mozambique Company, 162.
Mufti, 354.
Municipal government in the colonies, 330 *sq.*
Munsifs, native judges in Indian courts, 364.
Muravieff, Amurski, 53, 75.
Mutiny, Indian, 120.
Mysore, 122.

Nachtigal, 50, 161.
Napoleon, 10.
Natal, 34, 63, 64, 241; history of, 171.
Nationalism, 9; in industry, 87.
Native judges in India, 349.
Native police, 230.
Native states of India, 118; British jurisdiction in, 124.
Native systems of law, 348.
Natives, of Algeria, 206; in the civil service, 325; treatment of, 229, 233.
Naval stations, 71 *sq.*
Navigation Law system, 60.
New Guinea Company, 161.
New South Wales, appeal to the Privy Council, 374.
Niger Company, 152, 154, 157.
Nobility and colonization, 50.
North Borneo Company, 149, 157.
Northwest Frontier Province, 256.
Nyassa Company, 162.

Occupation, law of, 98.
Oceanica, French, 193.
Octroi de mer, 189.
Ontario, 213 *sq.*
Open door policy, 100.
Opium, India, 303.
Orders, colonial, 273.
Ottawa, colonial conference at, 262.
Oudh, 120.
Ouzara, 355.
Over-population, 32.

Pacte colonial, 60.
Panchayat, 342, 344.
Pangkor, Treaty of, 129.
Panjab, local government in, 334.
Parkin, Mr., and imperial federation, 265.
Parliamentary representation of colonies, 194, 198, 208, 266, 280, 281, 297, 299, 300, 302.
Payment of colonial officials, 322.
Penal code, Indian, 358, 360.
Penal colonies, 32.
Perak, 130.
Periodicals on colonial affairs, 26.
Persia, 105, 140.
Persian Gulf Political Agency, 132.
Peter the Great, 74.
Peters, Dr., 112, 153, 161.
Philippine Islands, 76, 77, 223.
Population, movements of, 30 *sq.*
Porto Rico, 78.
Portuguese Brazil Company, 162.
Portuguese colonization, 58.
Preferential tariff, 262 *sq.*
Pretorian *jus gentium* in Rome, 347.
Prevost-Paradol, 8.
Privy Council, Judicial Committee of, 350, 372.
Protectorates, 109, 233, 293.
Provincial contract in India, 314.

Public opinion and colonial government, 308.

Quart colonial, 322.
Quebec, struggles of French element in, 213.

Raffles, Sir Stamford, 52.
Railways and telegraphs in native states, 127.
Rattachements, 206, 280.
Regeerings-Reglement, Dutch, 307.
Régime of decrees, 199, 297.
Religious protectorates, 41.
Renan, 142.
Representation of interests, 226.
Representative institutions, 167, 197 *sq.*
Responsible government, 168; in Canada, 215.
Restrictive commercial policy, 61 *sq.*
Réunion, 186 *sq.*, 296, 369.
Revolution, French, and the colonies, 186.
Rhodes, Cecil, 52, 150, 158, 231.
Rhodesia, 153, 162; mining concessions in, 158; Orders in Council of 1898, 263.
Ring-fence, 118.
Robinson, Sir Hercules, 249.
Roman-Dutch Law, 347, 361.
Roscher, 19.
Russell, Lord John, on colonies, 4.
Russia, local government in Asia, 342.
Russian expansion, 11.
Russian military advance, 53, 97.
Russian mission in Asia Minor, 43.
Russian sphere in Persia, 106.

Saigon, 203, 340.
St. Pierre, 193.
Salisbury, Lord, 262, 271.
Sanads, 121.
Sandeman, Sir Robert, 132.
Say, J. B., 8.
Schäffle, Professor, 19, 20.
Schutzgebiete, 23, 356.
Second Empire and the colonies, 188.
Self-governing colonies, 169, 238 *sq.*
Selous road, 156.
Sénatus-consulte of 1854, 173, 188, 296, 297; of 1866, 296, 322.
Senegal, 191, 203, 339.
Settlement colonies, 17.
Siam, 105.
Siberia, 11.
Siegfried, Senator, 286.
Sierra Leone hut tax, 230.
Singapore, 74, 76, 129, 179, 338.
Skobeleff, 54.
Small Cause Courts in India, 364.
Smith, Adam, 186; on companies, 147.
Socialism in French colonies, 200.
Sokoto rulers, treaties with, 155, 156.
South Africa, 31, 73, 89, 293; federation movement in, 258.
Southern Rhodesia Orders in Council of 1898, 133.
Southwest African Company, 139, 150, 160.
Spanish colonization, 38, 57.
Spheres of influence, 95 *sq.*; definition, 103.
Spriggs, Sir Gordon, 259.
Stanley, Henry, 159.
Stanley, Lord, 4.
Statistics on colonial trade, 62.
Straits Settlements, 70, 178.
Sudan, 8, 74.
Suez Canal, 72.
Sulu, Sultan of, grant to North Borneo Company, 149.
Superior Council of the Colonies, 198, 285.
Supplies, colonial, 286.
Syed Ahmed Khan, Sir, 360.
Symbolic occupation, 98.
System of decrees, 188, 190, 199, 280, 297, 299, 319.
Système de rattachements, 206.

Tahiti, 193.
Taluk boards, 334.
Tariff legislation, French colonial, 189.
Territorial gains of Great Britain in Africa, 155.
Thomson, Joseph, 154.
Tongking, 115, 341.
Toronto Board of Trade, 268.
"Trade follows the flag," 62.
Transvaal, 8, 73, 89.
Treasury Office, auditing department, 293.
Treaties of delimitation, 104.
Trust funds, investment of, in colonial securities, 269.
Tunis, 69, 84, 113, 140, 227, 286; councils in, 209; judiciary of, 370; local government in, 341; native law in, 355.

Uganda railway, 293.
United States, colonial problems, 12; relation to the Latin-American republics, 107.
Unoccupied territory, 98.

Veto power, 245.
Virginia Company, 39.
Vladivostock, 75.

Wallon amendment, 199.
Wanyassa chiefs, treaty with, 112.
Wedana, 137, 368.
Wellesley, Lord, 118.
West Africa, tariff policy for, 70.
West Indies, federation of British, 255; French, 185; and Canada, 255.
Windward Islands, 179, 254.
Wissmann, Major v., 51, 161.

Zollverein, South African, 258, 262.

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